

JBJ3SC01

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

17 CR 630 (ER)

5 MARK S. SCOTT,

6 Defendant.

7 -----x

8 New York, N.Y.
9 November 19, 2019
9:00 a.m.

10 Before:

11 HON. EDGARDO RAMOS,

12 District Judge

13 APPEARANCES

14
15 GEOFFREY S. BERMAN,

United States Attorney for the
Southern District of New York

16 CHRISTOPHER DiMASE

17 NICHOLAS FOLLY

JULIETA V. LOZANO

18 Assistant United States Attorneys

19 COVINGTON & BURLING LLP

Attorneys for Defendant

20 BY: ARLO DEVLIN-BROWN

KATRI STANLEY

21 -AND-

22 DAVID M. GARVIN

JBJ3SC01

(In open court; jury not present)

THE COURT: Good morning, folks. What do we have to do this morning? I got the three letters last night. One from the government on the issue of the good faith instruction, and two from the defense on the Ruja Ignatova e-mail and the Apex SEC investigation.

So let's take the good faith instruction first, Mr. Devlin-Brown or Mr. Garvin.

MR. DEVLIN-BROWN: Well, your Honor, I appreciated the position of the Court last night that if it was inclined to give a conscious avoidance instruction, it would offer a good faith instruction. I think the government's right that if there's some language in the conscious avoidance instruction, perhaps your Honor is not required to give it. But I think it would still be nice to give it and appropriate to give it.

I think the conscious avoidance instruction walks up to a line that the Second Circuit has affirmed, but it walks up to a line saying recklessness or something, and I think good faith at least pushes that back a little and gives the defense a way to sort of tell the jury, yeah, you are going to hear about conscious avoidance, but you're also going to hear about good faith. So we'd request it.

MR. FOLLY: Your Honor, I think two main points on this. The first, as we set forth in our letter, is that the current instructions fully embody this very concept that is in

JBJ3SC01

1 good faith. It is simply articulating the requisite knowledge
2 and intent that is required to commit the crimes while adding
3 the words "good faith," and we think that's covered throughout
4 your Honor's current instructions.

5 The other point is that the government would submit
6 that a standalone good faith instruction in this case is
7 actually a little bit confusing for the following reason: The
8 key issue with respect to the money laundering charge is
9 whether or not the defendant knew that this money came from
10 some sort of unlawful activity. And defense opened on that,
11 it's been clear throughout the trial that that is the primary
12 argument. If the defendant knew that the money came from
13 unlawful activity, good faith has nothing to do with that.
14 It's either he knew or he didn't know. And a standalone
15 instruction would just add confusion to what is currently a
16 very, very clear charge as to the relevant legal issues before
17 the jury.

18 MR. DEVLIN-BROWN: I would just respond to that, that
19 I think the good faith instruction is quite intelligible in the
20 context of this charge. I think it would clearly mean good
21 faith belief that the money he was handling did not come from
22 criminal proceeds. So again, I think it's preferable to give
23 it as a separate instruction, it is a little bit more clear in
24 the separate instructions, it's right from Sands, it's given
25 routinely. I don't really see why there is that much objection

JBJ3SC01

1 to it.

2 THE COURT: I think it's two sides of the same coin so
3 I'll leave it in. With respect to the exhibits,
4 Mr. Devlin-Brown.

5 MR. DEVLIN-BROWN: Well --

6 MR. FOLLY: Before we close the loop on this last
7 point. We might propose, if we are going to have a standalone
8 instruction, that there something that ties it back to
9 knowledge and intent. In other words, something that says if,
10 however, you find that the defendant acted knowingly and with
11 the requisite intent that I have described, you cannot find
12 that he acted in good faith.

13 MR. DEVLIN-BROWN: I mean, I think that's probably in
14 the charge many, many times. I don't know that we need to
15 repeat it again here.

16 MR. FOLLY: The only reason to repeat it is, again,
17 this issue of having a standalone charge that's not connected
18 directly to what it is relevant to, which is knowledge and
19 intent. And we think making it clear that if the jury finds
20 that the defendant acted knowingly and with the requisite
21 intent, that the jury cannot find that he acted in good faith.

22 THE COURT: I am going to leave it as is.

23 Exhibits.

24 MR. DEVLIN-BROWN: So, yes, I'm happy to report that
25 my 3 a.m. letter at least or 2 a.m. had some impact on the

JBJ3SC01

1 government who I believe is going to offer Defense Exhibit 103
2 as their own exhibit in their case.

3 THE COURT: You wore them down.

4 MR. DEVLIN-BROWN: You know, small things sometimes in
5 the morning help.

6 With respect to the other exhibit, the Apex orders, I
7 think the preferable thing would have been able to establish a
8 stronger foundation through the witness on the stand. But
9 reading through it afterwards, it really does seem that, and
10 again we had no 3500 on this. But it really did seem to us,
11 based on Ms. Lozano's disclosures at the sidebar, that he had
12 read press about it. And there was a reference to his policies
13 and practices may have changed. I don't think that was
14 consistent with what he said on the stand. I think he made
15 clear what triggered this was a loan coming in. I think we
16 should have pursued it.

17 MS. LOZANO: First of all, there is absolutely no
18 record in the settlement documents, in the testimony, in any of
19 the Apex documents that we have turned over to defense that the
20 Apex New York settlement had anything to do with any decision
21 made in Apex U.K. And in fact, the reference to Mr. Spendiff
22 being aware of this settlement and knew that policies and
23 procedures had changed was qualified, and the government
24 informed defense about this, that Mr. Spendiff doesn't know
25 whether he knew that back in 2016. He doesn't know, he doesn't

JBJ3SC01

1 remember whether that was something that he knew then, or he
2 has learned since. So there's absolutely nothing in the record
3 to tie together this unrelated settlement in the United States
4 that, by the way, there's also no suggestion that the -- what
5 the policy and procedure changes were that were prompted by
6 this settlement, and whether they would have had any impact in
7 the U.K., which is under a different regulatory regime.

8 Mr. Spendiff was very clear about the reasons that he
9 did pursue enhanced due diligence. And it's inappropriate at
10 this time, since he is not here, to attempt to impeach him with
11 something that there's absolutely no factual record that he
12 even knew about at that point in time. So that would be asking
13 the jury to speculate that some unrelated U.S. based settlement
14 had an impact.

15 And lastly, the suggestion that there was some
16 relationship between the U.K. and the U.S. office misapprehends
17 what the government's position was, which was there was no
18 substantial relationship related to these issues. No
19 management relationship, no supervisory relationship. Of
20 course they had a referral relationship, just like Apex U.K.
21 had with many other third-party service providers. People
22 would refer them cases, they would refer cases to other people,
23 and there would be a fee splitting.

24 So, the government strongly objects to the admission
25 of these exhibits, because they would ask the jury to

JBJ3SC01

1 speculate, and they are totally untethered to any facts in this
2 case.

3 THE COURT: I'm not going to let them in. I indicated
4 initially that I thought it was attenuated. I still think it
5 is attenuated, and quite frankly, I am a little mystified about
6 the defense theory about these documents. It seems to me that
7 Apex was told, at least with respect to two clients, and I
8 don't know how many clients Apex has, it's probably thousands,
9 that it was sloppy. And if the theory is that, well, then they
10 cleared up their act, and guess what? They came across
11 Mr. Scott. I don't know how that helps you. In terms of them
12 being sloppy and allowing things that they should not have
13 allowed to go on go on. In any event, that's just my view of
14 the defense theory.

15 But I do think they are very far removed from the
16 facts of this case, and there are any number of questions that
17 I would have about the particulars of the other two cases
18 before it could conceivably come in. That would create a
19 problem that we do not need, so these exhibits will not come
20 in.

21 MR. GARVIN: Good morning, your Honor. Your Honor, I
22 anticipate some time this morning that the defense will likely
23 move into evidence Defendant's Exhibits 158, 159, 160, and
24 Defense Exhibit 701. Those are four tax returns for the period
25 of time 2015, '16, '17, and 2018. I don't anticipate there the

JBJ3SC01

1 is any objection to the 1040 tax returns of Mark Scott. But we
2 will also be asking to introduce into evidence Mark Scott's
3 FBARs he filed for '16, '17 and '18. Those are Exhibits 162,
4 163 and 164. I also don't anticipate an objection.

5 But I do expect an objection when we attempt to
6 introduce the FBARs of David Pike for those same three years.
7 The issue is that Mr. Pike and Mr. Scott were allegedly
8 co-conspirators in this endeavor, and part of what we would
9 like to show is that the MSSSI International bank accounts were
10 not kept a secret from the government. And that either
11 Mr. Scott or Mr. Pike or the two of them reported those
12 accounts to the government, and we think that is relevant to
13 our defense that they were doing things in a transparent
14 fashion and doing things in the normal way that entities
15 function that are doing things properly.

16 I've already been advised by counsel that there is an
17 issue with the David Pike FBAR, because David Pike has not
18 testified, and therefore, how is that particular document
19 getting in. Authenticity is not an issue. The documents
20 actually came from the government to us. So, to try to avoid
21 arguing this before the jury, I thought I should bring it up
22 now and let it be aired out.

23 THE COURT: So, Mr. DiMase, there is no issue with
24 respect to Mr. Scott's FBARs and tax returns.

25 MR. DiMASE: The 2018 tax return is not from the IRS;

JBJ3SC01

1 it's from the accountant. So, it may or may not represent the
2 final filed version, we'd like to take a look at that one. But
3 otherwise we don't expect to have any objections to the tax
4 returns or the FBARs filed by Mr. Scott.

5 We don't dispute the authenticity of the Pike FBARs.
6 They in fact were provided by the government to the defense so
7 the issue isn't whether they are authentic filings.

8 The issue is whether Mr. Scott knew that Mr. Pike was
9 reporting that information. They're filed by Mr. Pike. To the
10 extent they are signed, they're signed by Mr. Pike.
11 Mr. Scott's name does not appear on them anywhere. I don't
12 know what the evidence will be to connect it back to
13 Mr. Scott's state of mind.

14 THE COURT: Mr. Garvin?

15 MR. GARVIN: Your Honor, I think that it goes back to
16 they both used the same accountant and they are supposed to be
17 co-conspirators that are supposedly laundering money secretly.
18 And that it is abundantly clear that the bank accounts are
19 being listed by the alleged co-conspirators and filed with the
20 United States government. The data is being supplied to the
21 same accountant, whether it's on Mr. Pike's return or
22 Mr. Scott's return. So I think that the relevance issue
23 abundantly clear.

24 THE COURT: Theoretically, but the logical leap that
25 Mr. Scott knew what Mr. Pike was putting in his tax returns is

JBJ3SC01

1 one that I am not prepared to make or ask this jury to make.
2 So Mr. Pike's tax returns will not come in or FBARS will not
3 come in.

4 MR. DiMASE: Obviously, if they can provide a witness
5 that can indicate that Mr. Scott was aware, that would change
6 the landscape.

7 THE COURT: Sure.

8 MR. GARVIN: That was Mr. Pike's FBARS. The tax
9 return for 2018 is numbered 701.

10 MR. DiMASE: We'll take a look at.

11 It. A couple of other quick issues, your Honor. With
12 respect to Government Exhibit 533, could you pull that up,
13 Mr. Barile.

14 THE COURT: I will need a copy of the clean indictment
15 from the government.

16 MR. DiMASE: Yes, your Honor. We'll take care of
17 that. Sorry we didn't get that to you last night.

18 Your Honor, this is an e-mail that was the subject of
19 testimony from Mr. Wildner. If you could go down to page two.
20 The third paragraph in the e-mail at the bottom of the page
21 starting with "Colm O'Driscoll has spoken with Mark Scott."

22 THE COURT: Yes.

23 MR. DiMASE: So, it is our position that the portion
24 of that sentence where it says "confirmed that the relationship
25 with IMS was a one-off transaction." That that's not being

JBJ3SC01

1 offered for the truth and it's not hearsay. However, it does
2 appear that the statement Colm O'Driscoll has spoken with Mark
3 Scott and indicates this is what Mr. Scott reported, that would
4 constitute hearsay if offered for the truth.

5 So there's multiple layers here. There's Mr. Scott's
6 statement, purported statement to Mr. O'Driscoll, which is not
7 true, it is not being offered for the truth, but then there is
8 the encompassing statement that Mr. O'Driscoll spoke to
9 Mr. Scott and Mr. Scott provided this information.

10 THE COURT: So what do you want to do?

11 MR. DiMASE: So we're not opposed to a limiting
12 instruction on that part of this e-mail, that the government is
13 not offering it for its truth but rather its effect on the
14 listener, i.e. the effect on BNY Mellon in their process of
15 deciding how to handle this compliance inquiry.

16 THE COURT: What word exactly?

17 MR. DiMASE: I think the Court can instruct the jury
18 that this should not be considered for its truth, or is not
19 being offered for its truth but only its effect --

20 THE COURT: Just the entire exhibit?

21 MR. DiMASE: I think it is really this particular
22 paragraph. I mean, I defer --

23 MR. DEVLIN-BROWN: I think given that the jury
24 probably won't understand the multiple levels of hearsay sort
25 of issue. I think just something as simple as this is offered

JBJ3SC01

1 to show the effect on Bank of New York Mellon, you shouldn't
2 take it for the truth of what Mr. Scott said to Mr. O'Driscoll
3 or what Mr. O'Driscoll said to Mr. Scott about the matter.

4 MR. DiMASE: I think a simpler instruction, this is
5 not being offered for the truth, but it is being offered for
6 its effect on the listener is appropriate.

7 THE COURT: Do you propose to bring this exhibit up
8 for the jury?

9 MR. DiMASE: I think we should, otherwise I don't
10 think the jury will understand what the Court is referring to.

11 THE COURT: I'm happy to do that. Anything else? Is
12 Ms. October here?

13 MR. DiMASE: Yes.

14 Judge, there were a number of exhibits that were not
15 admitted yesterday or within the last couple of days which we
16 intended to admit. The transcript does not reflect the
17 admission of those exhibits. I think Mr. Folly has a similar
18 issue. So, I'll let him speak while I'm looking for the
19 document.

20 THE COURT: Okay.

21 MR. FOLLY: Yes, your Honor. It is a slightly
22 different issue. We admitted, when we put the timeline which
23 was 2701 into evidence, all of the exhibits listed on it. So
24 that the record is clear as to what was admitted, we'd like to
25 provide that list to the court reporter so that it accurately

JBJ3SC01

1 reflects what came in.

2 THE COURT: Can you show that to the defense.

3 MR. FOLLY: We provided this to the defense last week.
4 We have not heard any objections, so we'd like it on the record
5 at this point.

6 THE COURT: Very well.

7 MR. DEVLIN-BROWN: Did you give an updated list last
8 night or maybe it was the same list?

9 MR. FOLLY: As to the timeline, no changes there.

10 MR. DEVLIN-BROWN: We agree those are in.

11 MR. DiMASE: Just for the record, your Honor, the
12 exhibit issue, the transcript reflects that Exhibits 506 and
13 513, and Exhibits 517 and 537 are in evidence. What I meant to
14 offer was 506 through 513, and 517 through 537. So I would
15 offer those exhibits now. They were shown to the witnesses at
16 the time. I had an understanding that they were admitted into
17 evidence. I don't think there is any objection. These are the
18 BNY Mellon records.

19 THE COURT: Any objection?

20 MR. DEVLIN-BROWN: I don't think so. But they're all
21 straight bank records?

22 MR. DiMASE: These are the various e-mails and other
23 records admitted through the Bank of New York Mellon witness.

24 MR. DEVLIN-BROWN: I don't think so, but maybe we can
25 just quickly take a look.

JBJ3SC01

1 THE COURT: It's 9:30. Why don't you guys do that
2 later.

3 MR. DiMASE: That's fine.

4 THE COURT: Let's get Ms. October in here.

5 (Continued on next page)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JBJ3SC01

October - Direct

1 (Jury present)

2 THE COURT: Good morning, ladies and gentlemen. Thank
3 you as always for being so prompt. We will now continue with
4 the direct examination of Ms. October.

5 Ms. October, you are reminded that you are still under
6 oath. Ms. Lozano.

7 MS. LOZANO: Thank you, your Honor. At this time the
8 government offers pursuant to the stipulation GX 55, an e-mail
9 which is marked Government Exhibit 1441. We're offering it.
10 I'm not publishing to the jury yet.

11 THE COURT: Very well. It will be received.

12 (Government's Exhibit 1441 received in evidence)

13 THE COURT: Is it GX 55?

14 MS. LOZANO: The stipulation, the electronic evidence
15 stipulation is GX 55. This exhibit, e-mail is GX 1441.

16 THE COURT: Very well.

17 ROSALIND OCTOBER,

18 called as a witness by the Government,

19 having been previously sworn, testified as follows:

20 DIRECT EXAMINATION (Continued)

21 BY MS. LOZANO:

22 Q. Good morning, Ms. October.

23 A. Good morning.

24 Q. When we broke yesterday, you were speaking about your
25 analysis of bank records and reflections of loans and whether

JBJ3SC01

October - Direct

1 there were reflections of loan repayments. So, I want to ask,
2 I want to go back and ask you, did your review of the bank
3 records in this case reveal that certain payments were
4 represented as loan payments?

5 A. Yes.

6 Q. And you mentioned yesterday that your review of DMS records
7 reflected payments to Fenero from DMS that indicated they were
8 repayments of a loan?

9 A. Correct.

10 Q. Aside from those references in DMS records, did you see any
11 evidence in any other bank records of any repayments of any
12 reported loans?

13 A. No, I did not.

14 Q. I'd like to move on now to a different subject. Well, same
15 subject. Different part of it.

16 Your financial analysis of the Fenero Funds, did it
17 also involve review of transactions that went through Locke
18 Lord and escrow accounts held by Locke Lord?

19 A. Yes, it did.

20 Q. What is Locke Lord?

21 A. Locke Lord is an international law firm, one of which,
22 where Mr. Scott was employed.

23 MS. LOZANO: Mr. Barile, can we pull up and also
24 publish to the jury GX 2621.

25 Q. Ms. October, please describe what this chart represents of

JBJ3SC01

October - Direct

1 your financial analysis.

2 A. This chart represents certain flows of money originating
3 from a RavenR account held in the United Emirates. RavenR I
4 understand to be a OneCoin affiliated company. And this four
5 transfers that occurred in September 2015.

6 Q. Let me stop you right there. When you use the term OneCoin
7 affiliated with RavenR, can you be more specific? With whom is
8 it, your understanding with whom is it connected?

9 A. Connected to Ruja Ignatova.

10 Q. Okay. Continue.

11 A. So, moving from left to right, there is approximately \$85
12 million with these four transfers that occurred in September
13 through October, going into a Zala Group account held at
14 Comerica. Zala Group is owned by Gilbert Armenta.

15 Q. Was he the signature on that account?

16 A. Yes, he was. And then after the money was deposited into
17 the Comerica account, held in Zala's name, it was then
18 subsequently transferred into two split payments to a Regions
19 Bank also held in the name of Zala Group which Gilbert Armenta
20 is the signatory for. And those transfers happened in October
21 for 9,500,000 on October 21, and \$4,445,051.75 the following
22 day, October 22 to the Regions account ending in 9143.

23 Q. So let me just stop you right there. There are two
24 different Regions bank accounts in the name of Zala Group, one
25 ending 9143, one ending 9135; is that right?

JBJ3SC01

October - Direct

1 A. That is correct.

2 Q. On the same day, October 21, 2015, the Comerica Zala Group
3 account sent the same amount to each those accounts?

4 A. Right. To each account.

5 Q. The 9.5 million?

6 A. The 9.5 million and the 4,445,000.

7 Q. The next day?

8 A. The next day.

9 Q. That Comerica account sent the same amount, one to each of
10 the Zala accounts held at Regions?

11 A. That is correct.

12 Q. After that money was transferred to the two Regions bank
13 accounts, the 9143 and the 9135, where did you trace the money?

14 A. After the Regions transfers, the money was transferred in
15 two payments to a Locke Lord account held at JPMC ending in
16 3546.

17 Q. What date was that?

18 A. So that occurred on February 2, 2016.

19 Q. Approximately how much was transferred between those two
20 accounts?

21 A. Approximately \$5 million.

22 Q. All right. Then after that approximately \$5 million hits
23 the Locke Lord JPMC account, what happened? What do you find
24 with your tracing?

25 A. Once the transfer was received into the JPMC account ending

JBJ3SC01

October - Direct

1 in 3546, it was then subsequently transferred to a Northern
2 Trust account ending 8222 held in the name of Edwards Wildman
3 Palmer, which is also known as Locke Lord. And that transfer
4 occurred on February 5, 2016 in the amount of \$5,116,458.

5 Q. And then what happens to that money after approximately two
6 weeks after?

7 A. Approximately two weeks after, on February 18, 2016, the
8 same amount, \$5,116,458 is transferred to a Zala Group account
9 held in the United Emirates, ending in 8004.

10 Q. Do you know who the signatory of that account is?

11 A. I believe it's Gilbert Armenta.

12 Q. To be clear, the transfer from the Locke Lord JPMC to the
13 Northern Trust account is exactly to the penny the same amount
14 as the Northern Trust transfer to the Zala Group Emirates
15 account?

16 A. It is exact.

17 Q. One question. There is a notation on this chart on upper
18 right hand corner that says N/K/A. What does that mean?

19 A. That's just shorthand for now known as Locke Lord LLP.

20 MS. LOZANO: Mr. Barile, can we now publish 2614.

21 Q. Ms. October, can you walk us through this chart, please,
22 and explain what it depicts.

23 A. This chart depicts attempted and also successful transfers
24 of approximately 33.4 million euros. So the transfers started
25 with an attempt at an account held at Kreissparkasse Steinfurt

JBJ3SC01

October - Direct

1 in the name of IMS in Germany. Ending in 6108.

2 Q. Do you know who the signatory on that account is?

3 A. I'm not sure.

4 Q. Okay. Walk us through what happens on March 31.

5 A. On March 31 there was a 33.4 million euro transfer,
6 attempted transfer, notated by the dotted line to a Locke Lord
7 account held in the United Kingdom escrow account. The
8 following day, the same amount, 33.4 million euros, was
9 transferred back to the IMS Kreissparkasse Steinfurt account
10 held -- IMS account ending in 6108.

11 Q. Then after that, on April 5, 2016, what happens from the
12 Kreissparkasse Steinfurt account 6108?

13 A. So on the same day of April 5, 2016, there were four
14 separate transfers, three separate 9 million euro transfers,
15 and one transfer for 6.4 million euros that was transferred to
16 another IMS account held at United Overseas Bank ending in
17 6682.

18 Q. Do you know why -- first of all, what is that total for
19 April 5?

20 A. That totals 33.4 million dollars -- euros.

21 Q. And do you know why the 33.4 million dollars was not
22 transferred all in one transfer and it was broken up into four?

23 A. I do not know the reason for that.

24 Q. So, where does it go?

25 A. Once it is received into the 6682 IMS account, it is then

JBJ3SC01

October - Direct

1 transferred to the DMS Cayman bank ending in 6102 held in the
2 name of Fenero Equity Investments LP, and those transfers
3 happen in \$5 million increments, 5 million euro increments,
4 starting from May 30, 2016 to June 7, 2016.

5 Q. For a total of what?

6 A. For a total of 35 million euros.

7 Q. And the United Overseas Bank 6682, when it received the
8 33.4 million euros, how long had that account been opened?

9 A. That account had only been opened for two months.

10 Q. The 6682 United Overseas bank account, is that one of the
11 accounts that you identified as one of the original nine
12 accounts that funded the four Fenero Cayman accounts?

13 A. That is correct, yes.

14 Q. Do you know who the signatory for the IMS PTE at United
15 Overseas Bank is?

16 A. Yes, I do.

17 Q. Who is that?

18 A. The account opening records reflect that it's held by Manon
19 Hubenthal and Frank Ricketts.

20 MS. LOZANO: I think we can move on now, Mr. Barile.
21 We can take that down.

22 Q. Ms. October, you mentioned yesterday that you also analyzed
23 part of your financial tracing in this case bank records
24 related to two individuals who invested in OneCoin. What were
25 the names of those individuals?

JBJ3SC01

October - Direct

1 A. Linda Cohen and William Horn.

2 MS. LOZANO: Mr. Barile, can we pull up GX 2626,
3 please.

4 Ms. Rivera, would be possible to erase the blue that's
5 on my screen? Thank you.

6 Q. Ms. October, what does this chart reflect?

7 A. This chart reflects some transfers that I reviewed
8 concerning Linda Cohen which were transferred to Secure Point
9 360, and subsequently ended up in the accounts of IMS.

10 Q. So walk us through. She -- you traced how much money?

11 A. \$22,577.29.

12 Q. Where did that money first come from? Where did it
13 originate?

14 A. So the records reflect that Linda Cohen has an account at
15 HSBC ending in 664, and then on February 17, 2016, she
16 transferred the \$22,577.29 to a TD Bank account ending in 7544
17 in the name of Secure Point 360.

18 Q. The HSBC bank account, do you know where that was held?

19 A. That's a New York account, Manhattan account.

20 Q. Manhattan?

21 A. Yes.

22 Q. Once the money, the 22,000 and change hit the Secure Point
23 360 TD account, where did you see it go?

24 A. So, my analysis reflects that Secure Point maintains an
25 account with Bannockburn Global Forex, which is now known as

JBJ3SC01

October - Direct

1 First Financial Bank. When I reviewed the First Financial Bank
2 records, there is a Forex exchange.

3 Q. A what exchange?

4 A. A Forex exchange.

5 Q. What is a Forex exchange?

6 A. That's just a currency place that does currency conversions
7 for its customers and clients.

8 Q. Okay. It receives money in one currency and exchanges it
9 and sends it out in a different --

10 A. Correct. So, first my review of the First Financial
11 records shows that there were transfers to IMS account ending
12 in 6108, as well as transfers to IMS account ending in 6682.
13 So, my tracing showed that Mrs. Cohen's funds ended up in the
14 IMS bank accounts.

15 Q. And that 6682 account, the IMS account, that's the one we
16 just saw in a previous chart was opened in February of 2016?

17 A. Correct.

18 Q. This same month?

19 A. Correct.

20 Q. Let's now turn, we can take this slide down. Let's now
21 turn to where the money went after it was transferred to the
22 intermediary accounts. Did you trace any of the funds that
23 flowed through the defendant's Fenero fund accounts to
24 purchases made by Mr. Scott?

25 A. Yes, I have.

JBJ3SC01

October - Direct

1 Q. Generally speaking, what kind of purchases?

2 A. So, there were purchases for real estate property, there
3 were purchases for a number of watches, time piece collections,
4 there were purchases for vehicles, inclusive of Ferraris and
5 Porsches, as well as a yacht.

6 Q. Let's talk about the real estate. How many property
7 purchases did you trace to funds originating from the nine
8 original funding accounts that sent money to the Fenero Funds,
9 the IMS, Star Merchant, B&N and Fates accounts?

10 A. So, there were a total of five properties that benefited
11 from those funds. Three of the properties went through
12 successfully. There was one property that was an attempted
13 purchase, and then there was a condo where a mortgage was paid
14 off in connection to that property.

15 Q. What did your tracing process for property purchases
16 entail?

17 A. It entailed first reviewing the bank records, and tracing
18 the source of funds. And it also entailed reviewing some
19 search warrant photos and it also entailed looking through
20 various property records.

21 Q. When you say property records, describe what records you're
22 talking about. Who keeps these records?

23 A. Properties that -- property records that are public records
24 usually held by the county clerk or where the property is
25 domiciled, where the property is located, there is public

JBJ3SC01

October - Direct

1 records for those properties that consists of deeds and
2 mortgages and title records and also records with who the
3 owners of the properties are registered into.

4 MS. LOZANO: Mr. Barile, please pull up and publish to
5 the jury GX 2617-A.

6 Q. Ms. October, please explain what this chart depicts.

7 A. This chart illustrates a home located at 133 Sunset Lane in
8 Barnstable, Massachusetts, in the Cape Cod area.

9 Q. Who owns that home?

10 A. That is owned by Mark Scott. And it was purchased on
11 October 24, 2016 for \$2,850,000. My tracing entailed that
12 these funds derived from the one of the intermediary accounts,
13 the DMS Cayman MSSSI International Consultant, which sent a
14 transfer on September 6, 2016, of \$529,750 to another MSS
15 International Consultants account, domestic account, held in
16 Florida at City National Bank ending in 3236.

17 Q. Who was the signatory on that account?

18 A. That is Mark Scott. And the funds from the 3236 account at
19 City National Bank was then transferred 450,000 -- 460,000 of
20 it to his attorney's account, Nicole Huesmann IOLA account, on
21 September 7, 2016.

22 Q. And then where did that money ultimately go?

23 A. Well, the purchase of the property consisted of two
24 transfers, so, there was an additional transfer that came from
25 another intermediary account held at the Bank of Ireland ending

JBJ3SC01

October - Direct

1 in 4760 in the name of Fenero Tradenext Trading, which
2 transferred also to Ms. Huesmann's account on October 3, 2016,
3 in the amount of \$2.5 million to Ms. Huesmann's account. Once
4 the money was in Ms. Huesmann's account, it was then used to
5 facilitate and finalize the purchase of 133 Sunset Lane with
6 two payments to a Kinlin Grover Realty Group in the amount of
7 \$145,000 and \$2,772,953.54 on October 21, 2016, to a Cowley &
8 Cummings IOLA real estate account.

9 Q. According to the property records for this property, when
10 was it purchased; what was the date of the purchase?

11 A. The date of the purchase was October 24, 2016.

12 Q. What was the total purchase price?

13 A. \$2,850,000.

14 Q. Now, I'd like to ask you about the arrow that goes from
15 attorney's bank account to Cape Cod Five Cents Savings. There
16 is a notation there, "deposit for 133 Sunset Lane."

17 Where did that come from?

18 A. That came from the wire details for that particular
19 transfer.

20 Q. So then let me ask you, and this property is 133 Sunset
21 Lane?

22 A. Yes, it is.

23 Q. The two arrows that show money coming into Ms. Huesmann's
24 IOLA account for the benefit of the defendant have two
25 different notations. The top one reads what?

JBJ3SC01

October - Direct

1 A. The top one reads loan to MSS for acquisition Biltmore Way.

2 Q. And the bottom one reads?

3 A. Escrow property partial payout of BN loan facility.

4 Q. Given those -- where were those notations?

5 A. Those notations would be included in the wire details.

6 Q. Given those notations, how did you then determine that in
7 fact those moneys were used to buy this property and not
8 something on Biltmore Way?

9 A. So, a review of Ms. Huesmann's account did not reflect any
10 purchases for a Biltmore Way or BN loan facility. I'm not sure
11 what those are. But given the time period of the flows of
12 funds, I used my judgment that those funds were actually used
13 for the 133 Sunset Lane purchase.

14 Q. We can turn now to 2617-B. Oh, I'm sorry. Can we go back
15 to 2617-A for one minute.

16 Do you know what that photo comes from?

17 A. That photo came from a search warrant, I believe.

18 Q. Let's now go to 2617-B. What is this chart?

19 A. This chart reflects transfers of money to pay off a
20 mortgage for a condo owned by Mr. Scott located at 600 Coral
21 Way, Unit 12, in Florida. The property records reflect that
22 there was a mortgage, and there was a mortgage for this
23 property and the purchase price was 1,580,000. And that
24 occurred on January 14, 2015. And my review of the records
25 shows that on October 16, 2016, that that -- the existing

JBJ3SC01

October - Direct

1 mortgage was paid off in the amount of \$1,794.66. And further
2 down below in the blue box shows where the source of funds to
3 pay off that mortgage came from.

4 Q. Those were the two Bank of Ireland accounts in the name of
5 Fenero Tradenext Holding?

6 A. Yes, so the two bank accounts, which is the one of the
7 seven intermediary accounts that each transferred 500,000 in
8 October 2016 to Nicole Huesmann's account.

9 Q. After the second transfer, which was on October 17, two
10 days later, October 19, the mortgage was paid off according to
11 your analysis?

12 A. Yes, that's correct.

13 Q. This house is in the name of who?

14 A. In Mark Scott. It is a condo.

15 Q. Was the mortgage in his name?

16 A. Yes.

17 Q. I'm sorry, not house. Condo. Where did you get this
18 picture?

19 A. This is just a regular internet photo.

20 Q. Let's turn now to 2617-D. What is this house?

21 A. This chart illustrates a property also owned by Mr. Scott
22 located at 31 Dale Avenue in Hyannis Port, Massachusetts. Also
23 in the Cape Cod vicinity.

24 Q. When was it purchased?

25 A. This property was purchased September 20, 2017, in the

JBJ3SC01

October - Direct

1 amount of \$3,765,000.

2 Q. Where did that money, according to your tracing, where did
3 it come from and where did it go?

4 A. The funds for this property came from two of the
5 intermediary accounts, one in the name of Fenero Trading
6 Holding ending in 4760, and which transferred to Nicole
7 Huesmann's account of \$250,000. And the second intermediary
8 account held in DMS Cayman in the name of MSS International
9 Consultants ending in 7100, made two separate transfers, one on
10 July 14, 2017 in the amount of \$2 million, and the second
11 transfer on August 17, 2017 in the amount of \$1 million.

12 So, Nicole Huesmann's account collectively received
13 three million -- \$3.2 million into her account in three
14 different transfers. And once the money was in her IOLA
15 account, there were four separate payments to facilitate the
16 final payments for the 31 Dale Avenue.

17 Q. Those are the arrows?

18 A. Those are the arrows going out.

19 Q. To the right?

20 A. To the far right which includes the O'Neill Real Estate,
21 Frank Horgan Insurance Agency, and John W. Kenney Client Trust
22 account.

23 Q. Okay. The bottom arrow on the left coming in has a
24 reference to 31 Dale Avenue, right?

25 A. Yes.

JBJ3SC01

October - Direct

1 Q. The top arrow coming in and to the left has a reference to
2 Railroad Barnstable Property Development. Do you know what
3 that is?

4 A. I do not.

5 Q. Why were you able to tie that money to the 31 Dale Avenue
6 property?

7 A. So when I reviewed Ms. Huesmann's bank records, I did not
8 notice any payments that reference any payments that included a
9 Barnstable Railroad property. So, based on my judgment and
10 given the time period of these transfers, I used my judgment
11 that this, these transfers were made for the 31 Dale Avenue
12 property.

13 Q. And on the right, the arrows coming out of Ms. Huesmann's
14 account, does every one of those arrows include a notation, a
15 wire notation that references 31 Dale Avenue?

16 A. Yes, all of them have reference on 31 Dale Avenue in some
17 form.

18 Q. So let's now move to 2617-E. Oh. Actually can we go back
19 one more question about 2617-D and 31 Dale Avenue.

20 You mentioned that the total coming in was 3.25
21 million, but the total going out was the 3.7 and change million
22 to purchase the property. Can you explain the differentials
23 there?

24 A. Sure. So, Ms. Huesmann's account also received additional
25 transfers from some of Mark Scott's accounts held at City

JBJ3SC01

October - Direct

1 National Bank. So, it was, given the time period of some of
2 those transfers, it was a little bit challenging to say exactly
3 that all of that money was used for this purchase. So I only
4 collectively gathered the transfers that was in close proximity
5 to that particular real estate purchase date.

6 Q. So you reflected on the chart only the transfers that you
7 feel confident are traced to the original nine funding
8 accounts?

9 A. That's correct, yes.

10 Q. Where did this picture come from, if you know?

11 A. This picture came from an e-mail, Mark Scott's e-mail.

12 Q. It was an e-mail that he had?

13 A. Yes.

14 MS. LOZANO: 2617-E, please, Mr. Barile.

15 Q. Ms. October, explain briefly what this chart represents.

16 A. This chart represents another property home purchased by
17 Mr. Scott located at 105 Sunset Lane in Barnstable,
18 Massachusetts, also in the Cape Cod vicinity, which was
19 purchased on November 13, 2017, in the amount of \$2,310,000.

20 Q. And there is a notation here Scott contributed \$1.310
21 million. What, can you explain what that means?

22 A. So my analysis of what this particular property reflected
23 that there were, there was a second individual that purchased
24 the property with Mr. Scott, a Marietta Halle. So I extracted
25 her funds because it wasn't related to the transfers connected

JBJ3SC01

October - Direct

1 to the nine accounts.

2 Q. And the Fenero Funds?

3 A. And the Fenero Funds. So, her amount that she contributed
4 is extracted from the total price. So I was only able to trace
5 actually the 1.3 million that Mark Scott's intermediary account
6 held at DMS Cayman in the name of MSSI International ending in
7 account 7100 made a transfer of 1,310,000 on October 30, 2017
8 to Ms. Huesmann's account. The IOLA account. And that IOLA
9 account made a transfer on November 12, 2017 in the amount of
10 2,211,380 to John Kenney Client Trust account.

11 Q. In your review of property records, did you see anything
12 connecting John Kenney to the purchase of this property?

13 A. Yes, John Kenney is listed in the property records as well
14 as Ms. Huesmann.

15 Q. As one of the attorneys?

16 A. As one of the attorneys, yeah, of the property.

17 Q. You mentioned an attempted purchase. Where is the general
18 vicinity; where was that property?

19 A. That property was also in the Cape Cod location.

20 Q. How much money was transferred in anticipation of that
21 attempted purchase?

22 A. So, I noticed that around February of 2017, there were two
23 \$500,000 transfers to Nicole Huesmann's account.

24 Q. But that never happened?

25 A. The property wasn't purchased.

JBJ3SC01

October - Direct

1 Q. We'll move on from property now. You also -- real
2 property.

3 You also mentioned that you traced Fenero Fund money
4 to purchases of watches by the defendant. How many watches
5 were you able to trace to the Fenero Funds in the original nine
6 funding accounts?

7 A. So, I traced 16 watches, just from one jeweler, Time Piece.
8 And then I traced a handful of additional watches that was
9 purchased from a variety of other jewelers, possibly maybe
10 another five or six watches.

11 MS. LOZANO: Mr. Barile, can you please display GX
12 2618.

13 Q. Ms. October, can you summarize for us what this chart
14 reflects?

15 A. This chart reflects the 16 watches that were purchased
16 for -- by Mr. Scott which originated from one of the -- either
17 one of the Fenero accounts or the MSSI Cayman accounts totaling
18 \$281,800, and the 16 watches were purchased from the one
19 jeweler known as Time Piece.

20 Q. On the bottom of the chart, does the chart move from left
21 to right chronologically?

22 A. Yes, so it is a timeline chart, which reflects the date of
23 the property -- of the watch purchase, and also the arrow above
24 it shows from what account that money was -- what account the
25 watch was purchased from.

JBJ3SC01

October - Direct

1 Q. So you traced all of these watches to one of four accounts
2 that are depicted on the top of this chart, the Northern Trust,
3 the City National Bank 3008, City National Bank 3236, and the
4 City National Bank --

5 A. 0295.

6 Q. -- 0295. What is depicted in the each box for each watch?

7 A. So, depicted in the box on the top is whatever was listed
8 in the wire description for the watch, and there is a generic
9 picture of a watch as well as the dollar amount of the
10 purchase, and the bottom part entails the date of that
11 purchase.

12 Q. What was the price range for these 16 watches?

13 A. It ranged from the lowest being \$3,700, to the highest
14 being \$35,995.

15 Q. What kind of watches were these?

16 A. There were a combination of Rolex watches, Omega watches
17 and Panerai watches as well.

18 Q. We can take that down, Mr. Barile.

19 You also mentioned purchases made with Fenero Fund
20 money by the defendant of multiple vehicles. I am going to ask
21 you about those now. If we can pull up GX 2619-A.

22 What does this chart depict?

23 A. This is a purchase of a Ferrari 599 GTB 2011, which was
24 purchased by Mr. Scott on November 8, 2016, in the amount of
25 \$245,269.37.

JBJ3SC01

October - Direct

1 Q. Okay. So I just want you to focus on the far left and the
2 far right. Where did this money originate, according to your
3 tracing?

4 A. The funds originated from one of the intermediary accounts
5 held at the Bank of Ireland in the name of Fenero Tradenext
6 Holding ending in 5001.

7 Q. And all the way on the right, where did the money end up?

8 A. The money ended up with a check payment to Braman
9 Motorcars.

10 Q. All right. Let's go now -- by the way, did that check,
11 your review of that check indicate the model?

12 A. Yes, it did. It was in the memo line, yes.

13 Q. Mr. Barile, please pull up 2619-B.

14 Ms. October, what does this chart represent?

15 A. This chart represents a Porsche 911 Turbo 2017 which was
16 purchased by Mr. Scott on February 10, 2017, in the amount of
17 119,529.50.

18 Q. Okay. And again, focusing just all the way on the left and
19 all the way on the right, where did the money originate?

20 A. The funds originated from one of the intermediary accounts
21 held at the Bank of Ireland in the name of Fenero Equity
22 Investment ending in 4760.

23 Q. And where did the money end?

24 A. It ended with a check payment to Braman Motorcars.

25 Q. Again, did that check indicate in any sort of way that the

JBJ3SC01

October - Direct

1 purchase was for a Porsche 911 Turbo?

2 A. Yes, it did.

3 Q. Where does this photo come from, do you know?

4 A. This came from just -- I think this came from a search
5 warrant photo.

6 Q. Okay. Let's move on to 2619-C. What does this chart
7 depict?

8 A. This chart depicts a Porsche 911R 2016 purchased by
9 Mr. Scott on June 15, 2017, in the amount of \$332,248.41.

10 Q. And the money originated from what account?

11 A. The money originated from one of the intermediary accounts
12 held at DMS Cayman in the name of MSS International Consultants
13 BVI Limited.

14 Q. And that transfer was a \$500,000 transfer that went through
15 a couple of intermediary accounts?

16 A. Yes, so for the purchase of this property, there were
17 multiple transfers. So, the DMS Cayman account transferred on
18 June 14, 2017, \$500,000 to Mark Scott -- MSS International
19 Consultants LLC, one of the domestic accounts held in Florida.

20 Q. Then it went to another?

21 A. Then it went --

22 Q. CNB Mark Scott account?

23 A. Correct. The same, the same bank, just under the name of
24 Mark Scott.

25 Q. Okay.

JBJ3SC01

October - Direct

1 A. Ending 0295.

2 Q. Then from there, where was the money sent for the ultimate
3 purchase of the vehicle?

4 A. To Braman Motorcars.

5 Q. At Sun Trust Bank?

6 A. Sun Trust Bank, yes.

7 Q. How did you determine from your financial analysis that the
8 purchase was for this kind of make and model of a car?

9 A. So, the it was indicated on the wire details.

10 Q. And the total purchase of that car was 332,248.41?

11 A. Yes, that's correct.

12 Q. We can move on now, Mr. Barile, to 2619-D.

13 Ms. October, what does this chart represent, which
14 vehicle?

15 A. This chart represents a purchase by Mr. Scott of a Porsche
16 911 GTRS 2018, on June 11, 2018, in the amount of 218,898.87.

17 Q. Where did this money originate, where did you trace the
18 purchase price to?

19 A. These funds came from a RBC account held in the name of
20 Mark Scott Trust 2017 ending in 3317 account number.

21 Q. Were you able to trace the money that was in 3317, where
22 that money came from?

23 A. Yes, I did.

24 Q. Where did that money come from?

25 A. It came from a series of transfers, but I was able to

JBJ3SC01

October - Direct

1 transfer it back to another RBC account held in the name of HFT
2 Holding ending in 8611.

3 Q. You were able to trace it back to that?

4 A. I was able to trace it back to that, and then the 8611 was
5 also traced to the intermediary accounts and then traced
6 further up to one of the Fenero accounts and traced back up
7 further up originating from one of the nine accounts, either
8 Star Merchant, B&N Consultants, IMS or Fates.

9 Q. So this purchase was made on June 11, 2018. And where was
10 the purchase price of the \$218,898.87 sent?

11 A. It was sent to Braman Motorcars held at Sun Trust.

12 Q. Mr. Barile, could we see 2619-E.

13 What is this chart, Ms. October?

14 A. This chart reflects a purchase of a 911 GT2 RS 2018
15 purchased by Mr. Scott on August 29, 2018, in the amount of
16 \$617,426.46.

17 Q. And all the way on the left, to which two accounts did you
18 trace the purchase price for this vehicle?

19 A. The funds came from, the top one is one of the intermediary
20 accounts of MSS International Consultants BVI held at First
21 Caribbean ending in 2701. As well as the RBC account held in
22 the Cayman Islands in the name of Mark Scott 2017 Trust ending
23 in 3317.

24 Q. So the First Caribbean MSSI account sent \$500,000 through a
25 series of Mark Scott controlled accounts, and the RBC account

JBJ3SC01

October - Direct

1 sent \$2 million through one other Mark Scott controlled
2 account?

3 A. That is correct.

4 Q. Ultimately, to whom was the purchase price paid?

5 A. Paid to Braman Motorcars.

6 Q. And this 3317 RBC account, is that the same account as you
7 just testified you traced to the RBC 8611 HFT Holdings account?

8 A. That is correct.

9 Q. All right. Was there any indication in any of the -- in
10 any of the bank records that this was the car that was being
11 purchased with these funds?

12 A. Yes. The wire details indicated the model of the car.

13 Q. Where did you get this photo?

14 A. This photo was taken from the search warrant.

15 Q. Let's now turn to 2619-F. Ms. October, tell us about this
16 chart.

17 A. This chart illustrates a purchase of a Sunseeker Predator
18 yacht that was purchased by Mr. Scott on March 21, 2017, in the
19 amount of \$1,310,000.

20 Q. Where did that money originate, where did you trace that
21 money back to, what account?

22 A. The funds were traced to one of the intermediary accounts
23 held at Bank of Ireland, in the name of Fenero Tradenext
24 Holding ending in 5001.

25 Q. And that transfer for the amount of \$1.3 million, was there

JBJ3SC01

October - Direct

1 a notation on that wire?

2 A. Yes. The wire indicated boat purchase sent for MSSSI Marine
3 Group Limited.

4 Q. Ultimately, were two payments made to cover purchase price
5 of this yacht?

6 A. Yes, there was, yeah.

7 Q. Where did those payments go?

8 A. There were two payments, one that went to Galat Yacht Sales
9 in amount of \$130,000 with a reference in the wire indicating
10 deposit for 2016 Sunseeker Predator. And the second deposit,
11 second final payment was in the amount of 1,127,000 where the
12 reference in the wire indicated Sunseeker which was paid to a
13 Nautikos Florida LLC account.

14 Q. Do you know what Nautikos Florida is?

15 A. I understand it to be a business in the marine space that
16 sells boats.

17 Q. According to the documents and records you've reviewed, do
18 you know what the name of this yacht or vessel is?

19 A. Yes.

20 Q. What is that?

21 A. TMI -- T-A-I-M-A.

22 Q. Do we see that on the photo or partial?

23 A. Yes.

24 Q. The partial name of the photo there?

25 A. Yes.

JBJ3SC01

October - Direct

1 Q. And what letters are missing so we see what --

2 A. It's spelled T-A-I-M-A. So the M is partially cut off and
3 the A.

4 Q. Where does this photo come from?

5 A. This came from a search warrant.

6 Q. We can take that down.

7 As part of your financial analysis, did you prepare a
8 summary of the total value of transfers from the Fenero MSSSI
9 accounts to Scott controlled accounts?

10 A. Yes.

11 Q. Can we pull up 2628, Mr. Barile, please.

12 What does this chart reflect?

13 A. This chart reflects the nine funding accounts that
14 transfers money to the four Cayman Fenero accounts, then to the
15 seven intermediary accounts which included bank accounts held
16 in the name of MSSSI in the Cayman Islands, as well as four Bank
17 of Ireland accounts held in the name of various names of
18 Fenero. And those funds were transferred to accounts
19 controlled by Mark Scott, and also accounts to Nicole Huesmann
20 bank accounts, as well as the accounts that he shares with
21 David Pike, and the total sums of the money for these transfers
22 was approximately 52 million.

23 Q. How much?

24 A. 52 million.

25 Q. For the entire box?

JBJ3SC01

October - Direct

1 A. The entire box.

2 Q. All in?

3 A. All in.

4 Q. How do you define in this chart and for yourself accounts
5 controlled or for the benefit of defendant Scott?

6 A. Based on the account opening documents, and the signatory
7 card that the accounts listed Mr. Scott as either a director or
8 beneficial owner of these accounts.

9 Q. How is this bottom box organized?

10 A. So, it's organized with the orange circle and the American
11 flag as accounts that are domestic, were U.S. held, and then
12 there's flags that represents accounts that are held in the
13 Cayman Islands, and then moving, actually, then there is also
14 one account there is a Swiss account, so, the first box
15 represents all of only -- only Mr. Scott accounts.

16 And then the second box, the middle box has the orange
17 colored coding around it, represents accounts that's not held
18 in Mr. Scott's name, but accounts where he actually received
19 benefits from, and those would include the Nicole Huesmann
20 account, as well as the Williams Jet Tenders account, which
21 appeared to mention the name of the boat in the wire records.

22 And then to the far right, located in highlighted in
23 blue, are accounts that are shared with Scott and David Pike,
24 and there are two accounts in that box.

25 (Continued on next page)

JBJ9SCO2

October - Direct

1 MS. LOZANO: All right. I want to ask you if we could
2 actually put up, Mr. Barile, side-to-side 1441 now.

3 Q. And Ms. October you mentioned -- you testified that some of
4 the intermediary accounts as well as the Fenero Fund Cayman
5 accounts were held at DMS?

6 A. Correct.

7 Q. So I'd like you to take a look at 1441.

8 Have you seen this before?

9 A. Yes.

10 Q. And what is it?

11 A. It's an e-mail from Mark Scott on May 17, 2016. From Mark
12 Scott to Mark Scott with the subject DMS wire details.

13 MS. LOZANO: Can we scroll up to the second page of
14 it. And I think we may need to rotate.

15 Q. What is this, Ms. October?

16 A. So this is a DMS Bank & Trust wire instructions sheet.

17 Q. Does that indicate for account holders at DMS what
18 intermediary banks are going to handle their international
19 transfers?

20 A. Yes, it does.

21 Q. And on the left-hand column there's a column called
22 currency?

23 A. Yes.

24 Q. And the first one down it says USD. What does that stand
25 for?

JBJ9SCO2

October - Direct

1 A. That's US dollar.

2 Q. The next column over says intermediary bank?

3 A. Correct.

4 Q. And for US dollars or accounts held at DMS what serves as
5 the intermediary bank?

6 A. Bank of New York Mellon.

7 Q. What is the address?

8 A. Bank of New York Mellon New York, New York.

9 Q. What is the address?

10 A. I'm sorry. One Wall Street, New York, New York.

11 MS. LOZANO: I think we can take that down now.

12 Q. So let's go back up to 2628.

13 Now you mentioned that this chart reflects a total of
14 approximately \$53 million that the defendant received from the
15 Fenero Funds accounts?

16 A. That is correct.

17 Q. Are you familiar with the defendant's Fenero private equity
18 fund mission statement?

19 A. Yes.

20 MS. LOZANO: Mr. Barile, if we could pull up GX2201,
21 page 7. Let's I guess go to 6 first so we can show the
22 witness.

23 Q. Ms. October, do you recognize this?

24 A. Yes. It's the Fenero Equity Investments mission statement.

25 Q. And was that document contained in some of the bank records

JBJ9SCO2

October - Direct

1 that you've reviewed?

2 A. Yes.

3 Q. So let's go to the second page of this statement which is
4 the seventh page of the exhibit and on the top there is a
5 paragraph and in the middle of the paragraph there's a sentence
6 that starts "The fund manager receives," and then it has little
7 i, little two i, little three i. So can you read to me that
8 entire sentence starting with, "The fund manager receives."

9 A. The fund manager receives a management fee of one percent
10 per deposit in the fund; two, a one percent on the average
11 annual remaining cash value of the fund; third, an eight
12 percent carried interest pari passu with investors upon any
13 exit.

14 Q. What is your understanding about the one percent management
15 fee that the defendant was entitled to under this agreement,
16 what was that one percent based on?

17 A. The one percent based on -- it says based on the deposits
18 in the fund.

19 Q. So the total deposits in the fund?

20 A. The total deposits.

21 Q. And what about number three, an eight percent carried
22 interest pari passu with the investors upon any exit.

23 Are you familiar with the term carried interest?

24 A. Yes, I am.

25 Q. What does that mean?

JBJ9SCO2

October - Direct

1 A. Carried interest is additional income that a partner in a
2 private equity fund can receive from profits derived from those
3 deposits.

4 Q. So to be clear the eight percent is calculated not on the
5 total money invested in the fund but only from the profit
6 earned?

7 MR. GARVIN: Your Honor, I'm sorry. Leading.

8 THE COURT: Yes. Don't lead, Ms. Lozano.

9 Q. Explain to me what is the eight percent calculated from?

10 A. The eight percent will be calculated based on the
11 investments and then the return on those investments, whatever
12 profits were gained and realized from those investments would
13 be the profits only would be distributed to the fund manager --

14 Q. So to be clear --

15 A. -- partner.

16 Q. So to be clear is the eight percent calculated on the total
17 amount invested in the fund?

18 A. No.

19 MS. LOZANO: We can take that down. And we can put
20 2628 back up. Let's look at the bottom box.

21 Q. Now you walked through and explained to us the kind of
22 coding of the accounts here and how they're depicted. Can you
23 tell us where is the total amount that Mr. Scott -- that you
24 have credited to Mr. Scott for Scott-only controlled accounts?

25 A. So it's located in the -- in bold on the left side, Scott

JBJ9SCO2

October - Direct

1 accounts total credit \$29,339,608.08. And then there's euros
2 of 1,146,576.86. And then there's pounds of 8,275,109.60.

3 Q. And those are all independent of each other? Those aren't
4 kind of the same amount in different currencies? Those are
5 different amounts in each currency; is that right?

6 A. Different amount in each currency.

7 MS. LOZANO: One moment, your Honor.

8 (Counsel confer)

9 MS. LOZANO: Your Honor, one moment. I have one more
10 thing left.

11 At this time, your Honor, may I approach the witness?

12 THE COURT: You may.

13 Q. Ms. October, I want to show you five different exhibits.
14 And the first one is 2602A-BU. The next one is 2603-BU. The
15 next one is 2622-BU. The next one is 2628-BU. And the last
16 one is 2620-BU?

17 A. Yes.

18 Q. Do you recognize all of those?

19 A. Yes, I do.

20 Q. What are they?

21 A. They are various charts that I created to represent the
22 flow of money and flow of funds from the funding accounts to
23 accounts controlled by Mr. Scott.

24 Q. And those -- are those exhibits the same as the exhibits
25 with those numbers except that they're bigger?

JBJ9SC02

October - Cross

1 A. That's correct.

2 MS. LOZANO: I'm going to offer at this time, your
3 Honor, those five exhibits.

4 MR. GARVIN: I believe the Court has already ruled on
5 this. We have no objection.

6 THE COURT: Very well. They will be received.

7 (Government's Exhibits 2602A-BU, 2603-BU, 2622-BU,
8 2628-BU, 2620-BU received in evidence)

9 MS. LOZANO: I have no further questions for this
10 witness.

11 THE COURT: Cross-examination.

12 MR. GARVIN: Thank you, your Honor.

13 CROSS-EXAMINATION

14 BY MR. GARVIN:

15 Q. Good morning, Ms. October.

16 A. Good morning, counsel.

17 Q. My name is David Garvin. I represent Mr. Scott in this
18 matter.

19 MR. GARVIN: Mr. Barile, would you be nice enough,
20 sir, to put back onto the screen Government Exhibit 2201, page
21 7. If you could please highlight the top portion of the page.

22 Q. Ma'am, you were asked a few moments ago, and I wanted to
23 hit this while it was still fresh, about this particular
24 paragraph. Do you recall that?

25 A. Yes, I do.

JBJ9SCO2

October - Cross

1 Q. OK. And there is a portion of it that says "At this time,
2 Fenero expects to fully invest and exit from its initial
3 investments within a five-year term."

4 Do you see that, ma'am?

5 A. Yes.

6 Q. And you understand based upon your experience and education
7 that private equity funds can have an expiration date, correct?

8 A. Correct.

9 Q. It is often called an exit date, correct?

10 A. Familiar with that, yes.

11 Q. And that indicates that the parties should expect their
12 money to be tied up for a period of time, correct?

13 A. Possible.

14 Q. And the parties that are investing into the private equity
15 funds normally understand that it is the administrator of the
16 fund that will decide upon the investments of that fund; isn't
17 that correct?

18 MS. LOZANO: Objection. Calls for someone else's
19 state of mind.

20 THE COURT: Overruled.

21 Q. You can answer, ma'am.

22 A. It's possible.

23 Q. And so this particular document goes on to say that the
24 fund manager receives a: One, management fee of one percent
25 per deposit in the fund; two, a one percent on the average

JBJ9SCO2

October - Cross

1 annual remaining cash value of the fund; and three, an eight
2 percent carried interest pari passu with the investors upon any
3 exit.

4 Do you see that, ma'am?

5 A. Yes, I do.

6 Q. And isn't it also clear that the percentages here, in
7 particular, will -- focusing on number two, will be added each
8 year; isn't that correct?

9 A. It says an average annual.

10 Q. Correct. So you would anticipate that that would mean that
11 the one percent is an annual fee; isn't that right?

12 A. Possible.

13 Q. So, if that is the case, that means, if it lasts for five
14 years, that portion by itself should total five percent,
15 correct?

16 A. Yes.

17 Q. Now, in addition to that, if someone decides that they want
18 to break the private equity firm and take their investment out,
19 they have to then negotiate with the fund manager as to what
20 the termination fee; isn't that true?

21 A. I would imagine so.

22 Q. Because otherwise it could be viewed as a breach of
23 contract; isn't that true?

24 MS. LOZANO: Objection.

25 THE COURT: Overruled.

JBJ9SCO2

October - Cross

1 THE WITNESS: It's possible.

2 Q. And you were not present when the parties in this
3 particular case broke this equity fund, were you?

4 A. I was not.

5 Q. In fact, this equity fund appears to have only been funded
6 between the months of June and October of 2016, correct?

7 A. That sounds right.

8 Q. And that the money began to be closed out of these accounts
9 as early as April 10 of 2017; isn't that correct?

10 A. That sounds possible.

11 Q. And by September of 2017 all of the funds had been
12 transferred out; isn't that true?

13 A. I would have to see something to recall the time period.

14 Q. Fair enough, ma'am.

15 We're going to go through each of those charts and
16 when we hit that one that may be helpful we can talk about it
17 then, OK?

18 A. Sure.

19 Q. So, we have a situation where we don't know what the final
20 percentage was that was negotiated and agreed upon to pay the
21 fund manager, do we?

22 MS. LOZANO: Objection.

23 THE COURT: Overruled.

24 THE WITNESS: It's outlined in the mission statement.

25 Q. Well we see under this mission statement it would be one

JBJ9SCO2

October - Cross

1 percent if it went in accordance to what is said here, it would
2 be one percent, five percent, and eight percent carried
3 interest Pari passu; isn't that right?

4 MS. LOZANO: Objection. Misrepresenting the evidence.

5 THE COURT: Overruled.

6 THE WITNESS: That's what it says here.

7 Q. And if the parties simply just stuck with what it said they
8 could end up with as much as 14 percent going to the fund
9 manager at the early termination of this fund; isn't that true?

10 MS. LOZANO: Objection. Based on what?

11 THE COURT: If she knows.

12 THE WITNESS: I'm not sure.

13 Q. Well if we just add one percent and five percent and eight
14 percent the simple math on that would be 14, correct?

15 MS. LOZANO: Objection. Mischaracterizes her
16 testimony.

17 THE COURT: If she knows.

18 Can you answer that question?

19 THE WITNESS: No.

20 THE COURT: Next question, Mr. Garvin.

21 MR. GARVIN: Yes.

22 Would you be kind enough, Mr. Barile, to put up the
23 first chart. I believe it's 2601, sir.

24 Q. Now I believe this is the first chart. And this chart
25 reflects funds that were paid during a period of time and that

JBJ9SC02

October - Cross

1 is designated as February 2016 through April 2016 to Mark
2 Scott; is that correct?

3 A. Yes.

4 Q. And that total is slightly under a million dollars; is that
5 right?

6 A. That is correct.

7 MR. GARVIN: At this time I would like to move
8 Defendant's Exhibits into evidence, in particular, Defendant's
9 Exhibit 158, 159, 160, 701, being Mr. Scott's four tax returns.

10 MR. DEVLIN-BROWN: I think we have technical issues.
11 Can we use the hard copies.

12 MS. LOZANO: Your Honor, the government objects. This
13 is outside the scope of the direct. If they would like to
14 introduce it on their case they can.

15 Your Honor, may we have a sidebar on this?

16 THE COURT: No. I'll allow you to use them now.

17 MR. GARVIN: Thank you.

18 (Defendant's Exhibits 158, 159, 160, 701 received in
19 evidence)

20 (Counsel confer)

21 MR. DiMASE: Your Honor we would object to the
22 admission of the fourth exhibit, the 2018 tax return for the
23 reasons that we described at the beginning of the day. We
24 haven't seen it yet. Just that one for now.

25 THE COURT: It will be received subject to connection.

JBJ9SCO2

October - Cross

1 MR. GARVIN: Thank you. Your Honor, I believe he's
2 unable to pull it up electronically so we're going to try to
3 pull out the ELMO.

4 Can you please trigger the key for the lecturn?

5 Thank you, sir.

6 Q. Now I'm placing now down on the court's ELMO system and I
7 am showing you now what is in evidence as Defendant's Exhibit
8 159. Do you see that?

9 A. Yes.

10 Q. And you're familiar with the common 1040 tax return,
11 correct?

12 A. Yes.

13 Q. And the 1040 tax return that we are showing at this
14 particular instance to the ladies and gentlemen of the jury is
15 the 2016 return, correct?

16 A. Yes.

17 Q. And when we look down this tax return first we see in the
18 top notation it appears to be quite a large return because it
19 has 97 pages, correct?

20 A. Yes.

21 Q. And if we look at the income that's being reported for this
22 particular period of time -- would you be kind enough to read
23 what is on line 22 to the ladies and gentlemen of the jury?

24 A. 9,156,869.

25 Q. Now, a few moments ago you had discussed with myself the

JBJ9SCO2

October - Cross

1 very first chart which was 2601, correct?

2 A. I'm sorry.

3 Q. 2601?

4 A. Yes.

5 Q. We just discussed it a couple moments ago.

6 And on that particular chart the amount of money that
7 Mr. Scott received was one million dollars, correct?

8 A. Close to a million, yes.

9 Q. And I am directing your attention, ma'am, to line 17. Do
10 you see line 17?

11 A. Yes.

12 Q. And the amount that Mr. Scott reported on line 17 is
13 over -- slightly over \$2 million, correct?

14 A. Correct.

15 Q. And you are aware that Mr. Scott is a lawyer, right?

16 A. Yes.

17 Q. And that for at least a portion of 2016 Mr. Scott was
18 working as a lawyer at Locke Lord, right?

19 A. Yes.

20 Q. And that you would anticipate that his legal fees would be
21 reported on his tax return, correct?

22 MS. LOZANO: Objection.

23 THE COURT: Overruled.

24 THE WITNESS: I'm sorry?

25 Q. You would anticipate that his legal fees would be reported

JBJ9SCO2

October - Cross

1 on his tax return, correct?

2 A. His income.

3 Q. And your chart makes reference to the fact that those
4 transfers had written on them the words legal expense; isn't
5 that right?

6 A. Yes.

7 Q. And so if we look at line 17 it is for schedule E; is that
8 right?

9 A. Yes.

10 Q. And also for S corporations which means small corporations,
11 right?

12 A. Right.

13 Q. And in this particular case, if we located schedule E, we
14 would be looking to see if his law income would be reported
15 there, correct?

16 A. Right.

17 Q. Now in addition to his law income you have discussed with
18 the ladies and gentlemen of the jury that Mr. Scott controlled
19 an entity known as MSS International Consultants BVI; isn't
20 that right?

21 A. Yes.

22 Q. And BVI is short for British Virgin Islands, correct?

23 A. Yes.

24 Q. And British Virgin Islands does not have an income tax
25 system for small business entities; isn't that correct?

JBJ9SCO2

October - Cross

1 A. I'm not sure.

2 MS. LOZANO: Objection.

3 THE COURT: Overruled.

4 Q. Now, there is an opportunity, though, that if you have a
5 small foreign entity that the taxpayer can tell the IRS that
6 they're going to report the entity as if it was domestic and
7 they call that a disregarded -- a report for foreign
8 disregarded entities; isn't that true?

9 A. I'm not sure.

10 Q. I'm putting down what's page 22 of the 97-page document.
11 In particular I'm making reference at this point to form 8858.

12 Do you see that, ma'am?

13 A. Yes, I do.

14 Q. And do you see that it says information return of U.S.
15 persons with respect to foreign disregarded entities?

16 A. Yes, I see that.

17 Q. And the name of the person who is filing the return it says
18 is Mark S. Scott, right?

19 A. Yes.

20 Q. And the name of the company that he's reporting as a
21 foreign disregarded entity is MSS International Consultants
22 BVI.

23 Do you see that?

24 A. I see that.

25 Q. Now, what effect that has is that any money that MSS --

JBJ9SCO2

October - Cross

1 strike that. I'm sorry. I got ahead of myself -- that MSS
2 International Consultants BVI is going to report as income
3 will, in fact, appear on this United States tax return; isn't
4 that true?

5 MS. LOZANO: Objection. Counsel is testifying.

6 THE COURT: Overruled.

7 THE WITNESS: I'm not sure.

8 Q. Well, if we look at this closely we will see that Mr. Scott
9 has reported on line 12 almost an additional \$7 million of
10 taxable income.

11 Do you see that, ma'am?

12 A. I see that.

13 Q. And you will agree with me, and somewhat facetiously, I'm
14 sorry, I can't help myself, that will buy a lot of watches,
15 right?

16 A. A lot of property.

17 Q. A lot of property, a lot of watches, a lot of boats, right?

18 A. I would assume so.

19 Q. There's nothing wrong with buying property or watches or
20 cars as long as you abide by the law, correct?

21 A. Correct.

22 Q. And one of the things you have to do to abide by the law is
23 you have to report your taxes, right?

24 A. Part of it.

25 Q. And you would also agree, would you not, based upon your

JBJ9SC02

October - Cross

1 experience that private equity fund managers make a whole lot
2 of money; isn't that true?

3 A. Some of them do.

4 Q. And so it is not unusual to see a private equity manager in
5 charge of a four-hundred-million-dollar equity fund earning
6 seven, eight million dollars a year; isn't that true?

7 A. Earning is subjective.

8 Q. But it is -- the statement is true though, isn't it?

9 A. Possible.

10 MR. GARVIN: Your Honor may I -- I see we're close to
11 what I think is the break.

12 THE COURT: We can break now. Ladies and gentlemen,
13 we'll take fifteen minutes. Don't discuss the case.

14 (Jury not present)

15 THE COURT: Ms. October, you may step down.

16 (Witness excused)

17 THE COURT: Everyone can be seated. Anything else?
18 Don't be late.

19 (Recess)

20 THE COURT: OK. Can we get Ms. October?

21 (Jury present)

22 THE COURT: Mr. Garvin.

23 MR. GARVIN: Thank you, your Honor.

24 Ms. Stanley, are you able to pull up Defendant's
25 Exhibit 701, please.

JBJ9SCO2

October - Cross

1 Could you please go in, I think it's to page 14. Are
2 you able to scroll down to page 14? Thank you. Please
3 continue scrolling down if possible. I like to get to the
4 first page of the return. I think it's two more pages. One
5 more page, I believe. Looking for the first page of the
6 return. OK. That indeed is the first page of the return.

7 Q. Do you recognize this, ma'am, as Mark Scott's personal 1040
8 for the year 2018?

9 A. Yes, I do.

10 Q. You see that the format has changed because there was a
11 change by the Internal Revenue Service that year; is that
12 correct?

13 A. I'm not sure.

14 Q. And if we look in the center section we see that the return
15 was prepared by a CPA company; is that correct?

16 A. Yes.

17 MR. GARVIN: Ms. Stanley, would you be nice enough to
18 go to the next page, please.

19 Q. And this is the -- this page reflects the income that was
20 reported by Mr. Scott to the Internal Revenue Service; is that
21 correct?

22 A. It appears so.

23 Q. And if we look at line 10 it says taxable income,
24 \$29,671,123. Do you see that ma'am?

25 A. Yes, I do.

JBJ9SCO2

October - Cross

1 Q. And this would be in addition to what we had previously
2 seen reported by Mr. Scott in 2016; isn't that correct?

3 A. (No response).

4 Q. Is that correct, ma'am?

5 A. I'm not understanding the question.

6 Q. On Defendant's Exhibit 159 that we did right before the
7 break we saw that there was on line 22 9,156,869 reported as
8 taxable income in 2016, correct?

9 A. Right. I recall.

10 Q. And now we're seeing in 2018 that he has reporting an
11 additional \$29,671,123 of taxable income; isn't that correct?

12 A. I see that.

13 MR. GARVIN: You can take that down. Thank you.

14 Q. So just if we add those two together by themselves there
15 was approximately \$39 million of taxable income reported by
16 Mr. Scott for the years 2016 and 2018; isn't that correct?

17 A. That adds up.

18 Q. Now, I'd like to shift back to talking about some of the
19 charts that you prepared.

20 A. OK.

21 MR. GARVIN: In particular perhaps Mr. Barile would
22 help us with putting up 2602, please.

23 Q. At the top we have the total amount for the Fenero Funds,
24 correct?

25 A. Yes.

JBJ9SCO2

October - Cross

1 Q. And as we stated I believe a little bit earlier that this
2 time period covers May of '16 through October '16; is that
3 right?

4 A. That's correct.

5 Q. And that's the period of time that the -- excuse me. The
6 four private equity funds were funded, correct?

7 A. Right.

8 Q. And so what we see in the far left-hand side is that there
9 is a bank account --

10 MR. GARVIN: Could we please enlarge the top third.

11 Q. Focusing now on what appears to be Commerzbank on the far
12 left-hand side. Do you see that, ma'am?

13 A. Yes.

14 Q. Account ending in 2001?

15 A. Yes.

16 Q. And it would be accurate to say that Mr. Mark Scott was not
17 a signatory on that account; isn't that true?

18 A. That's true.

19 Q. If we go to the next account to the right ending in 7201 it
20 would be also true to say that Mr. Scott does not appear in any
21 of the bank records for that account as a signatory; isn't that
22 correct?

23 A. I'm unable to answer that.

24 Q. Well the records that you saw Mr. Scott was not a signatory
25 in any of the records that you saw; is that correct?

JBJ9SCO2

October - Cross

1 A. I did not have the records for the account -- the OCBC
2 account ending in 7201.

3 Q. Let's go to the next account, the Deutsche Bank account.
4 Would it be accurate to say that Mr. Scott was not a signatory
5 authority on that account?

6 A. Correct.

7 Q. And working our way across to try to pick up a little bit
8 of speed would it be accurate to say that Mr. Scott was not a
9 signatory on any of the accounts that are highlighted on the
10 screen now?

11 A. I'm unable to answer that because we do not have the
12 records for the other OCBC account.

13 Q. So we do know that Mr. Scott was not signatory on any of
14 the accounts here with the exception of OCBC because we simply
15 don't have those records; is that right?

16 A. Correct.

17 Q. Now, if you would be kind enough, sir, to highlight the
18 bottom third.

19 Now the bottom third it shows the four Fenero equity
20 accounts, correct?

21 A. Yes.

22 Q. And those accounts were held in Mr. Scott's name; isn't
23 that right?

24 A. As a signatory, yes.

25 Q. And all four of those accounts were -- fell under the MSSSI

JBJ9SCO2

October - Cross

1 consultants or international consultants BVI entity; isn't that
2 right?

3 A. I think so.

4 Q. And Mr. Scott was the signatory for that account or entity
5 also; isn't that right?

6 A. For the MSSSI?

7 Q. Yes, ma'am.

8 A. Yes.

9 Q. Now, I want to talk about the one over to the far
10 right-hand side. Do you see the one that says Fates Group.
11 The far right-hand side it says the Fates Group. Do you see
12 that, ma'am?

13 A. Yes.

14 Q. And do you -- would it be accurate to say that the money
15 that the Fates Group sent to the Fenero equity investments was
16 returned?

17 A. Returned to who?

18 Q. To Fates Group?

19 A. To another Fates Group account, yes.

20 Q. And every penny that we have --

21 MR. GARVIN: If we could fade out to the normal
22 screen, please. Thank you so much.

23 Q. If we add these two Fates Groups together it comes pretty
24 close to \$10 million, slightly less; is that correct?

25 A. Close to 10 million, yes.

JBJ9SCO2

October - Cross

1 Q. And the exact same amount, several months later, was
2 returned to Fates Group; isn't that correct?

3 A. I wouldn't say returned but it was transferred to another
4 Fates Group account.

5 Q. Well it was the -- money that came into Fenero Equity,
6 there was a specific amount and that exact same amount was
7 returned back to Fates Group?

8 A. I'm just uncomfortable with "returned." I would associate
9 returned with being returned to the exact same account. Not to
10 a different account.

11 Q. I see. OK. So I was using the term returned because it
12 went back to an account controlled by Fates Group but I
13 understand your point so I'll rephrase.

14 Was the money sent to an account that was controlled
15 by Fates Group?

16 A. Yes.

17 Q. And that money that it was sent to that was controlled by
18 Fates Group, isn't it accurate to say that Mr. Scott was not a
19 signatory on any of the Fates Group accounts?

20 A. I can't speak to that because I do not have the records for
21 the final destination for the Fates Group account.

22 Q. Have you seen Mr. Scott's name on any Fates Group account?

23 A. None that I reviewed, no.

24 Q. Thank you, ma'am.

25 Now, it would also be fair to say that each and every

JBJ9SCO2

October - Cross

1 one of the transactions that went to the first three Fenero
2 equity funds were in euros; isn't that right?

3 A. Euros, yes.

4 Q. And that none of these banks that we're listing here were
5 physically situated in the United States, correct?

6 A. None of the seven banks?

7 Q. Yes. The seven that have the -- you have flags that show.

8 A. Right. They're not in the United States with the exception
9 of the Fates Group.

10 Q. And the Fates Group as we have discussed for a few moments
11 now, those funds went to -- back to an account controlled by
12 the Fates Group although not the exact same account, correct?

13 A. Yes. A different Fates Group account.

14 Q. Now, I wanted to talk about the period of time here. This
15 covers approximately a five-month period of time, right?

16 A. Yes.

17 Q. And if we sat there and looked at the number of
18 transactions that occurred over that five months we would see
19 that each bank is sending less than ten wires in total. I have
20 not counted the one that says Star Merchant. Perhaps I should
21 have done that before I asked the question.

22 But let's start with the far left. It appears that
23 there's only six transfers there; is that correct?

24 A. I counted seven.

25 Q. I'll go with seven, if there's seven.

JBJ9SCO2

October - Cross

1 Over a five-month period of time that would be a
2 frequency on average of one a week or maybe even less
3 frequently, correct?

4 A. Well there was four in one day.

5 Q. I understand that. But I'm talking about when you put all
6 of these numbers out there it becomes kind of overwhelming. It
7 looks like, wow, there's a lot. But when you realize that this
8 covers a five-month period of time, the frequency or the
9 average frequency becomes a little bit more reasonable, would
10 you not agree?

11 A. I'm not following you.

12 Q. All right. Well I probably asked a really poor question so
13 I'll move on.

14 MR. GARVIN: Could we please see no. 2603. Thank you,
15 Mr. Barile.

16 Q. A few moments ago we were talking about Mr. Scott's tax
17 returns. You recall that?

18 A. Yes.

19 Q. And this period of time is from 2016 through 2018; is that
20 correct?

21 A. Yes.

22 Q. And I believe you stated when you discussed this particular
23 chart that the side that has the American flag, the domestic
24 accounts, most, if not all, of those funds went through a Mark
25 Scott controlled bank account; is that true?

JBJ9SCO2

October - Cross

1 A. Mark Scott's controlled account as well as Nicole Huesmann
2 account.

3 Q. And Nicole Huesmann, she's an independent lawyer, correct?

4 A. I believe so.

5 Q. And she, as part of her private practice, she represents
6 people who purchase and sell real estate, she does the
7 closings, right?

8 A. It appears so.

9 Q. And so it's not uncommon for a lawyer who does real estate
10 work to place deposits in their trust account until the closing
11 occurs, correct?

12 A. It's normal.

13 Q. And so we know that this 36,643,000 plus the million
14 146,000 euros went either through Mr. Scott's account or Nicole
15 Huesmann's account, correct?

16 A. Correct.

17 Q. But we also know that during this period of time Mr. Scott
18 reported over \$37 million of taxable income on his tax returns,
19 correct?

20 A. From 2016 to 2018?

21 Q. Yes.

22 A. Yes.

23 MR. GARVIN: If we could please go to 2604, sir.

24 Q. Now, this chart shows where this particular fund sent money
25 to; is that correct?

JBJ9SCO2

October - Cross

1 A. Money going out and money coming in.

2 Q. And so we have the account is being funded with \$155
3 million; is that correct?

4 A. Yes.

5 Q. Now, let me start with that. During your research did you
6 realize that each of these funds were supposed to have a cap of
7 one hundred million dollars?

8 A. I'm sorry?

9 Q. Each of the Fenero Funds had a cap of one hundred million
10 dollars?

11 A. I'm unaware of that.

12 Q. Are you familiar that when an equity fund has a cap, if it
13 gets overfunded it must either return the funds or transfer
14 those funds to another equity fund that is not over the cap?

15 A. I'm familiar with that.

16 Q. And so you've shown here that there was a transfer of
17 approximately \$50 million that went to DMS Cayman to Fenero
18 Financial Switzerland.

19 Do you see that, ma'am?

20 A. Yes.

21 Q. But sitting here you don't know if that was done because
22 the DMS Cayman Fenero Equity Investments LP had exceeded its
23 cap?

24 A. Right. I'm not sure the reason.

25 Q. Now, you have listed several transfers here and when you

JBJ9SCO2

October - Cross

1 did this would it be fair to say that you simply went to the
2 bank accounts and looked for transfers out and transfers in?

3 A. Yes.

4 Q. And that that process as a lawyer or as an accountant is
5 normally the easiest way to just follow the money, right?

6 A. One of the ways.

7 Q. And in this particular case we see that some of the funds
8 indeed went to another Fenero Financial equity fund and to the
9 right it also went to the Bank of Ireland Fenero Equity
10 Investments; is that true?

11 A. Yes. It went to three Bank of Ireland accounts.

12 Q. And during your research and in preparation of your
13 testimony here today did you see the documentation that the
14 funds, the Fenero Funds were anticipating to invest in
15 distressed entities located in Europe and in particular the
16 United Kingdom and Ireland?

17 A. If you can show me something to refresh my memory on that.

18 Q. I don't remember the exact exhibit number but do you recall
19 reading the mission statement or any other documentation like
20 that?

21 A. It might be contained in the mission statement but I would
22 need to look at the document to refresh my memory.

23 Q. Well, when you looked at this you looked at the Bank of
24 Ireland documents, right?

25 A. Yes.

JBJ9SCO2

October - Cross

1 Q. And before the Bank of Ireland would accept any money they
2 would want to know what it is for, right?

3 A. The purpose.

4 Q. That's standard operating procedure, right?

5 A. Yes.

6 Q. And so what we do know here is that the Bank of Ireland
7 accepted the funds, correct?

8 A. The funds were successfully transferred.

9 Q. And we have some entries below that say DBS Bank Hong Kong
10 Barta Holdings LTD. Do you see that?

11 A. Yes.

12 Q. Now, you understood that to be a loan; isn't that right?

13 A. Yes, a loan for CryptoReal.

14 Q. And you understood that CryptoReal was going to purchase
15 from an entity called Barta Holdings an oil field; isn't that
16 right?

17 A. I'm familiar.

18 Q. And are you also familiar that the parties that represented
19 Barta, the sellers, was Dr. Hui and Neil Bush, the son of
20 President George Bush?

21 A. I'm only familiar with Dr. Makan, that he was listed on the
22 account opening records for Barta.

23 Q. Did you look to see who was on the board of directors of
24 any of Dr. Hui's firms?

25 A. No, I did not.

JBJ9SC02

October - Cross

1 Q. So sitting here today do you have any information that
2 Mr. Neil Bush, Dr. Hui, met in Hong Kong with Ruja Ignatova
3 about this very transaction?

4 A. I don't have knowledge of that information.

5 Q. Do you feel that that would have been important information
6 to put on your chart?

7 MS. LOZANO: Objection.

8 THE COURT: Sustained.

9 Q. Now, ma'am, you said that you did not see the repayment of
10 that particular loan; is that correct?

11 A. That's correct.

12 Q. And do you know when that particular loan was due to be
13 repaid?

14 A. No, I do not.

15 Q. So if the due date on that particular loan, \$30 million,
16 was due three or four or even five years after the closing, you
17 would not expect to see that repayment if you're limiting the
18 time period from June to August of 2016, would you?

19 A. Right.

20 Q. So let's go to the one next to that. It says Payment Card
21 Technologies. Do you see that?

22 A. Yes.

23 Q. Do you recognize that as an investment made by Fenero
24 Equity Funds?

25 A. I'm not sure what the purpose of the wire was for.

JBJ9SCO2

October - Cross

1 Q. Well did you make any effort to determine if Payment Card
2 Technologies, sometimes referred to as PCT, was a credit
3 card-related business in which Fenero Equity Funds purchased a
4 minority but controlling interest?

5 A. I'm unaware of that.

6 Q. Did you know when you made this chart whether or not any
7 agreement with Payment Card Technologies required an initial
8 deposit?

9 A. No, I do not.

10 Q. Would it be fair to say that you do not know the purpose of
11 any of these transfers?

12 A. If there was no mention in the wire details, then I would
13 not know the purpose of the transfer.

14 Q. So your knowledge would be limited to whatever the wire
15 detail states?

16 A. Some of that and I also reviewed some e-mails but with
17 respect to these transfers it's limited to the wire and the
18 bank statements.

19 Q. OK. I appreciate that. I didn't want to keep on badgering
20 you. I'm sorry.

21 So then we'll take this down and we'll move, if we
22 could, I believe the next one is 2607. Thank you so much.

23 Do you recognize this particular chart as one that was
24 discussed during direct examination, ma'am?

25 A. Yes, I do.

JBJ9SCO2

October - Cross

1 Q. And I'm looking at the top part and we see the four Fenero
2 Funds in blue; is that correct?

3 A. Yes.

4 Q. And can you tell the ladies and gentlemen of the jury what
5 is IG Markets General LTD?

6 A. It appears to be some type of investment management fund,
7 management company.

8 Q. And do you have any idea about who operates that fund?

9 A. No, I do not.

10 Q. So we see in this particular case a number of lines that
11 come down to the very bottom and I want to go over that just a
12 little bit if I may.

13 So again what period of time is this covering? Is it
14 July 2016 through April 2017?

15 A. Yes.

16 Q. And April 2017, actually April 10, 2017 is when the four
17 funds started transferring the money out until they were
18 closed; is that correct?

19 A. That's about right.

20 Q. So this would be right up until the time that started to
21 occur; is that correct?

22 A. It falls within the time period.

23 Q. And so can you tell us what is the purpose of the transfer
24 to Julius Baer for what appears to be Ocean States Ventures?

25 A. I don't know the reason for the transfer.

JBJ9SCO2

October - Cross

1 Q. Do you know anything about that particular investment?

2 A. No, I do not.

3 Q. How about the next one to Vida Homes. Can you tell us
4 about Vida Homes. What do they do?

5 A. Based on some records that I reviewed it appears to be home
6 purchases for Ruja Ignatova.

7 Q. And do you know if those were investment properties or
8 personal use properties?

9 A. I do not.

10 Q. Let's talk about directly across from it, it says Metro
11 Bank Peregrine law client. It seems to be another law firm,
12 isn't it?

13 A. It appears so.

14 Q. Do you know why Peregrine was receiving over \$7 million?

15 A. I do not.

16 Q. We've already discussed the next one, Nicole Huesmann,
17 right, so let's go past her.

18 Do you see payment to the right in a red at the
19 bottom, you see the Payment Card Technologies. Your answer
20 would be the same as what we previously discussed, right?

21 A. Right.

22 Q. And finally there's one above it that says IG Markets
23 General. What was that investment for?

24 A. I do not know the purpose of the investment.

25 Q. Now when an equity fund closes or is terminated it is

JBJ9SCO2

October - Cross

1 customary that the equity fund will transfer any assets back to
2 the original investors; isn't that true?

3 A. That happens sometimes.

4 Q. And the equity fund is not allowed to just keep everything,
5 right?

6 A. Right.

7 Q. So in this particular case you did see that millions and
8 millions of dollars were transferred back; isn't that correct?

9 A. Transferred back to whom?

10 Q. Well, let's go over that a little bit. That's a good
11 point. I think that one of your charts showed that 185 million
12 went to another private equity firm called Phoenix; isn't that
13 true?

14 A. Yes.

15 Q. And so that really wouldn't be a transfer technically back
16 to the original investors. That would be more on the lines of
17 a lateral transfer to a separate equity fund; isn't that
18 correct?

19 A. Except I'm not sure what Phoenix Fund's business model is.

20 Q. Did you take the time to look them up on Google?

21 A. No, I did not.

22 MR. GARVIN: Would you be kind enough, sir, I think
23 we've spent enough time with that one.

24 Could we go to 2622.

25 Q. And I think that we were just talking about that one so it

JBJ9SCO2

October - Cross

1 kind of fell right into place. This is the transfer history
2 for the funds that ended up with Phoenix Fund, right?

3 A. Yes.

4 Q. And it appears in this that it says February through
5 April 2017. Would it be fair to say that all of the transfers
6 occurred -- I guess we have been using -- let me start over
7 again.

8 Reviewing this it appears that actually the last
9 transfer to Phoenix was on April 10, 2017; is that correct,
10 ma'am?

11 A. That's correct.

12 Q. So actually the transfers commenced according to this chart
13 as early as February 24 of 2017; is that right?

14 A. That's correct.

15 Q. And do you know if in or about that time that BNY Mellon
16 was speaking with DMS Bank & Trust about IMS, meaning
17 International Marketing?

18 A. I'm not sure of that conversation.

19 Q. And I think that you told us that you have little or no
20 information on Phoenix Fund's history; is that correct?

21 A. I have some information.

22 Q. Do you have any knowledge for instance as to how long
23 Phoenix Fund had been in business?

24 A. No, I do not.

25 MR. GARVIN: We can take that down, please.

JBJ9SCO2

October - Cross

1 Could you please put up Exhibit 2620, please. Thank
2 you.

3 Q. Now this particular chart overlays pretty much everything
4 that happened during those two years, 2016 through 2018,
5 correct?

6 A. Yes.

7 Q. And the very, very bottom, those are the acquisitions or
8 purchases by Mr. Scott; isn't that correct?

9 A. Correct.

10 Q. And would it be fair to say and also accurate that these
11 purchases, some of them that you have listed occurred before
12 the Fenero Equity Funds were ever funded?

13 A. Which one are you referring to?

14 Q. I remember seeing in the watch category, which we'll
15 probably get to in the next exhibit, that there was a watch or
16 watches that were purchased before Fenero Equity Funds were
17 funded with the incoming money. I think it actually said 2015.

18 A. I would have to look at the -- I would have to see what
19 you're referring to.

20 Q. I think we'll get to it. You're not sitting here arguing
21 that Mr. Scott who was an equity partner in an international
22 law firm didn't make money before 2016, right?

23 A. I'm not disputing that.

24 Q. And you're not saying that Mr. Scott didn't have an
25 extensive watch collection before 2016, are you?

JBJ9SC02

October - Cross

1 A. I don't know what his watch collection consisted of prior
2 to this.

3 Q. Well you do know that there was a search warrant executed
4 in this case, correct?

5 A. Yes.

6 Q. And you do know that the -- after the search warrant was
7 conducted that the United States reviewed some of the things
8 that it had and decided to return them, right?

9 MS. LOZANO: Objection. May we approach?

10 THE COURT: Sustained. Sure.

11 (Continued on next page)

12
13
14
15
16
17
18
19
20
21
22
23
24
25

JBJ9SC02

October - Cross

1 (At sidebar)

2 MS. LOZANO: Your Honor I believe counsel is trying to
3 elicit testimony about items that were seized and subsequently
4 returned as part of the search warrant. Because the Court is
5 going to instruct the jury that these searches were proper and
6 lawful and the items obtained were lawfully obtained it is
7 totally inappropriate for counsel to make a suggestion that
8 items were seized that were unlawfully seized and returned and
9 it's just that should not be in front of the jury.

10 MR. GARVIN: I have no intention of doing any of that,
11 in fact, I thought I was going out of my way to make the
12 government look good because they saw that there was some
13 things that they decided to return. All I was trying to
14 establish was that Mr. Scott had purchased some watches and
15 cars which I'm still working on prior to the years in issue and
16 if the government saw fit to return something it was probably
17 because they recognized it had been purchased before the period
18 of time. The Court has already sustained the objection. I
19 planned on moving -- just moving on, not with this issue
20 though.

21 THE COURT: OK.

22 (Continued on next page)

23
24
25

JBJ9SCO2

October - Cross

(In open court)

Q. So getting back on track a little bit. So you recognize that Mr. Scott was an equity partner in an international law firm, correct?

A. Correct.

Q. And that that position pays very well; isn't that correct?

A. I assume so.

Q. And that there is perfectly nothing wrong with Mr. Scott spending his money, assuming as long as he pays his taxes, on things that he cherishes; is that correct?

A. OK.

Q. So there is nothing wrong with Mr. Scott having an extensive watch collection before 2016; isn't that true?

A. (No response).

Q. I'm not pointing at the chart.

A. OK.

Q. There's nothing wrong with it?

A. There's nothing wrong with it.

Q. The same thing goes with German cars. You know that Mr. Scott was born in Germany, right?

A. Right.

Q. And you've done enough research now to realize that all of these cars that you saw are German cars, right, at least with the exception of the Ferrari, right?

A. Right.

JBJ9SCO2

October - Cross

1 Q. And I think that actually -- you will recall that actually
2 got traded in on something that was from Germany; isn't that
3 right?

4 A. I don't recall.

5 Q. And -- now let's talk about the boat. There is nothing
6 wrong with having a boat in general, right?

7 A. Right.

8 Q. And there's definitely nothing wrong with having a boat if
9 you intend to use it for business development; isn't that true?

10 A. I guess so.

11 Q. Let's see if we can focus in a little closer. Perhaps that
12 exhibit that I'm thinking about is 2618. Perhaps that's the
13 one I'm thinking.

14 MR. GARVIN: And would you be kind enough, Mr. Barile,
15 to focus on that entry to the far left. Thank you, sir.

16 Q. So this is the one that I was telling you kind of caught my
17 eye before. You recognize the Fenero Funds received the
18 funding between June and October of 2016, correct?

19 A. Right. But there were other funding.

20 (Continued on next page)

JBJ3SC03

October - Cross

1 Q. This purchase occurred on November 23, 2015; isn't that
2 true?

3 A. That's correct.

4 Q. And this says that it came from Mark Scott PL. That's his
5 law practice account, isn't it?

6 A. Yes.

7 Q. Those funds didn't come from Fenero Equity Funds; isn't
8 that true?

9 A. It came from one of the IMS accounts.

10 Q. No. My question, ma'am, was those funds didn't come from
11 the Fenero Equity Funds; isn't that true?

12 A. I believe it did.

13 Q. The Fenero Equity Fund account was not funded until the
14 spring of 2016; isn't that true?

15 A. That is correct.

16 Q. Okay. Now, way back on 2601, it showed that Mark Scott
17 received close to \$1 million, and most of that money came from
18 IMS. Do you recall that?

19 A. Yes.

20 Q. And is that why you are saying that you believe it came
21 from IMS, this particular money?

22 A. I think so.

23 Q. Okay. We've already established, shown that the tax
24 returns shows that that million dollars was indeed reported by
25 Mr. Scott on his tax return; isn't that correct?

JBJ3SC03

October - Cross

1 MS. LOZANO: Objection.

2 THE COURT: Sustained.

3 Q. So the total amount of the watches that are here says
4 \$281,000. Do you see that?

5 A. Yes.

6 Q. It says that they are funds originating from Fenero MSSSI,
7 correct?

8 A. Correct.

9 Q. But, that first watch that we just looked at, that was not
10 from either Fenero or MSSSI, that was from Mark Scott PL; isn't
11 that correct?

12 A. Traced back to IMS.

13 Q. Right. This says Fenero MSS. It doesn't say IMS.

14 A. Right.

15 Q. Correct?

16 A. Correct.

17 Q. That's not accurate, correct?

18 A. It's still part of the IMS funding.

19 Q. I understand. But, just so the ladies and gentlemen of the
20 jury are not confused. The 281,000 did not come from Fenero or
21 MSSSI. In particular that 21,500 that we are talking about
22 right now came from Mark Scott PL. Correct?

23 A. That is correct.

24 MR. GARVIN: Okay. Now Mr. Barile, if you would be
25 kind enough to increase the size of the far left bottom watch.

JBJ3SC03

October - Cross

1 Yes. Thank you, sir.

2 Q. And this watch also shows a date that is before the Fenero
3 Fund got funded, right?

4 A. Right, also IMS funds.

5 Q. All right. So it did not come from Fenero Fund or MSSI,
6 right?

7 A. Correct.

8 MR. GARVIN: If you could please take that down, sir.
9 And I think we can take down the entire chart. So, I want to
10 go back and try to go a little bit quicker with these next
11 couple. Can we please put up 2621.

12 Q. This is the Locke Lord related issue, is it not?

13 A. Yes.

14 Q. So I'm starting on the far left-hand side, the funds get
15 started with Noor Bank RavenR. Mr. Scott was not a signatory
16 for that account; is that correct?

17 A. I do not have records for the Noor account.

18 Q. Let's go to the one below it. The Zala Group Comerica
19 Bank. Mr. Scott was not a signatory for that either?

20 A. Correct.

21 Q. And I'm imagining your answer would be the same for the
22 Noor Bank below; is that right? You don't have the records for
23 it?

24 A. I do not have the records for Noor Bank.

25 Q. Let's go to the right. And it says Regions Bank Zala

JBJ3SC03

October - Cross

1 Group. Mr. Scott was not a signatory on that account; isn't
2 that right?

3 A. Right, correct.

4 Q. And the one below that has a different account number,
5 slightly, Regions Bank Zala. Mr. Scott was not a signatory for
6 that either?

7 A. Correct.

8 Q. There are no records to show or -- excuse me. Let me
9 rephrase that.

10 There are no records that you've seen in preparation
11 of your testimony here today that Mr. Scott participated in any
12 of these transfers; isn't that correct?

13 A. Well, he was only on the e-mails for the Locke Lord
14 transfers.

15 Q. Right. Okay. So, the transfers before?

16 A. Before.

17 Q. It's an accurate statement what I just said, right?

18 A. That I haven't seen, yes.

19 Q. So now let's go to Locke Lord account. Who is the
20 signatory for the Locke Lord trust account?

21 A. I'm not sure.

22 Q. The two Locke Lord accounts that you have here, isn't it
23 accurate to say that Mr. Scott was not a signatory on either
24 one of those accounts?

25 A. I don't have the account opening records for either of the

JBJ3SC03

October - Cross

1 Locke Lord accounts.

2 Q. Ultimately, the funds went to Zala Group at an account that
3 you have listed there in the Emirates; is that correct?

4 A. Yes.

5 Q. And isn't it also true that Mr. Scott is not a signatory on
6 that account?

7 A. I do not have records for that account as well.

8 Q. Thank you. Could you please put up 2626, sir. Thank you.

9 Would it be fair to say that you have not seen any
10 documentation whatsoever that Mr. Scott ever met Linda Cohen?
11 Isn't that true?

12 A. I have no documentation of that.

13 Q. And Mr. Scott, there is nothing with Mr. Scott's name to
14 suggest that he was involved in the funds being at HSBC Bank,
15 United States NA; isn't that correct?

16 A. Correct.

17 Q. And there's nothing to suggest that Mr. Scott was involved
18 when Linda Cohen transferred \$22,577.29 to TD Bank; isn't that
19 correct?

20 A. I don't have any records for that.

21 Q. And Mr. Scott was not a signatory on the TD Bank account;
22 isn't that true?

23 A. Correct.

24 Q. And Mr. Scott was not a signatory on the bank account of
25 First Financial Bank, formerly Bannockburn Global Forex. Isn't

JBJ3SC03

October - Cross

1 that true?

2 A. That is true.

3 Q. And Mr. Scott was not a signatory authority on United
4 Overseas Bank that you have referenced there at 6682. Isn't
5 that true?

6 A. That's correct.

7 Q. And Mr. Scott was not a signatory on the Kreissparkasse
8 Steinfurt Bank number 6108. Isn't that true?

9 A. Correct.

10 Q. From the records that we have on this particular chart,
11 Mr. Scott's name is nowhere, correct?

12 A. I did not see his name on any of the accounts on this
13 chart.

14 Q. Can we please take that down, sir. Okay.

15 You had five exhibits and I am going to try do this
16 all in one time. 2617-A, B, D and E. I guess it was four.
17 Maybe we skipped C.

18 Those were real estate transactions that Mr. Scott
19 participated in, correct?

20 A. Correct.

21 Q. And three of those real estate transactions actually went
22 to closing, correct?

23 A. Correct.

24 Q. One fell through, right?

25 A. Right.

JBJ3SC03

October - Cross

1 Q. So whatever deposit he put on that particular entity went
2 back into Nicole Huesmann's trust account, correct?

3 A. It was transferred -- it wasn't reflected on the chart, but
4 it was transferred back to Mr. Scott.

5 Q. He didn't lose that money?

6 A. Right.

7 Q. I say that just because I don't want to be double counting.

8 A. Right.

9 Q. So, and then there was the condominium that he lives in
10 that they paid off the mortgage that had a balance of about a
11 million dollars, correct?

12 A. Correct.

13 Q. So the three properties that were waterfront properties,
14 did you recognize at any point that those appeared to be
15 investment properties?

16 A. I'm not sure the purpose of those purchase.

17 Q. Did you see any of them were rented out?

18 A. No, I did not.

19 Q. There is nothing wrong with buying property that you think
20 will appreciate in value, is there?

21 A. I guess not, no.

22 Q. You have, you went through five vehicles which we've
23 already discussed, 2619-A through E. Correct?

24 A. Correct.

25 Q. And you did recognize that some of those vehicles are

JBJ3SC03

October - Cross

1 actually collectors items; isn't that right?

2 A. I'm not familiar with brand name cars, so I can't speak to
3 that.

4 Q. All right. So, when you put up \$600,000 for a Porsche 911
5 GT2 RS, you didn't think one way or the other that that might
6 be a car that's for investment purposes as opposed to actually
7 driving?

8 MS. LOZANO: Objection.

9 THE COURT: Sustained.

10 Q. So do you know if any of the cars are investor items or
11 not?

12 A. I do not know the purpose of the car.

13 Q. At one point during your testimony on direct you stated
14 that Mr. Scott had signature authority over all of the Fenero
15 Equity Investment bank accounts. Do you recall that?

16 A. Yes.

17 Q. But, isn't it also true that during the period of time that
18 Apex was a fund manager, Mr. Scott did not have signature
19 authority over the Fenero Funds that Apex controlled?

20 A. I can't speak to that. I'm not sure.

21 Q. Isn't it also true that the accounts that were controlled
22 by JP Fund Administrator -- I think it's JP Integra but I think
23 I've seen it written here as JP Fund Administrator on their
24 accounts -- they are the ones who had the signature authority
25 for the Fenero Equity Investment Fund, not Mr. Scott?

JBJ3SC03

October - Redirect

1 A. I can't speak to that.

2 Q. So, when you told the ladies and gentlemen of the jury that
3 Mr. Scott had authority for all of the accounts, that was not
4 quite accurate. Is that correct?

5 A. His name was on the signature cards for all of those
6 accounts.

7 Q. All right.

8 MR. GARVIN: Your Honor, may I confer with counsel for
9 one moment? I think I may be done.

10 THE COURT: Very well.

11 MR. GARVIN: Your Honor, I have no further questions.
12 Thank you, ma'am.

13 THE WITNESS: Thank you.

14 THE COURT: Any redirect?

15 MS. LOZANO: Yes, your Honor.

16 REDIRECT EXAMINATION

17 BY MS. LOZANO:

18 Q. Ms. October, you were asked on cross-examination by counsel
19 about Fenero Fund mission statement, manager fees, and carried
20 interest. Do you remember that?

21 A. Yes.

22 Q. To be clear, the 8 percent that's mentioned in the mission
23 statement is calculated on what?

24 A. I have to look at it again. I'm sorry.

25 Q. Can we pull it up 2201, page seven.

JBJ3SC03

October - Redirect

1 A. The 8 percent is carried interest pari passu with the
2 investors upon exit.

3 Q. And carried interest is, as you testified previously,
4 calculated on profit only, correct?

5 A. Profit only, yes.

6 Q. That percentage that is articulated in the mission
7 statement is the manager's percentage of the profit earned on
8 the investments, right?

9 A. Correct.

10 Q. And that's because that fee is meant to be an incentive for
11 managers --

12 MR. GARVIN: I object to the leading.

13 THE COURT: It's redirect.

14 Q. And that is because this fee is meant to be an incentive to
15 fund managers running real investment funds to earn returns or
16 profits for their investors, right?

17 A. That's accurate.

18 Q. Focusing -- we can take that down. Thank you.

19 Focusing on, you mentioned that you saw evidence of a
20 loan given to DMS and repaid.

21 A. Yes.

22 Q. Is it fair to say that the repayment included some sort of
23 interest or profit?

24 A. Yes.

25 Q. Were there additional transactions that you identified in

JBJ3SC03

October - Redirect

1 the entirety of your financial analysis that identified profit
2 made by Fenero and returned to the investors?

3 A. There was only one instance.

4 Q. What was that?

5 A. That was the return of, with IG markets and I'm sorry. The
6 Cowen transfers. I think there was a profit of either 29,000 or
7 26,000. Somewhere in that range.

8 Q. You were asked on cross-examination about -- I think can we
9 pull up 2604, please. You were asked on cross-examination
10 about the \$30 million being sent to Barta Holdings.

11 A. Correct.

12 Q. And you were asked whether during this time period, on the
13 chart, the June to August 2016, you had not seen repayment of
14 that loan?

15 A. I did not.

16 Q. I would ask you a different question. During your analysis
17 of the entirety of the period bank records you analyzed from
18 May 2016 to July 2018, did you see evidence of repayment of
19 that loan?

20 A. I did not.

21 MS. LOZANO: We can take that down, and if we can put
22 up first 2701, page five. And if we can highlight I think we
23 want to go to the last page, actually. If we could highlight
24 that bottom entry.

25 Q. Ms. October, are you aware that the defendant was arrested

JBJ3SC03

October - Redirect

1 in September of 2018?

2 A. Yes.

3 Q. Take that down.

4 Counsel asked you on cross-examination about the
5 defendant's 2018 tax returns, right?

6 A. Yes.

7 Q. Do you remember that?

8 A. Yes.

9 Q. So can we pull up DX 701, and scroll to page 13. On this
10 form, how much in line one does the defendant claim as adjusted
11 gross income?

12 A. 29,695,405.

13 Q. At the bottom could we please highlight the filing date of
14 October 15, 2019.

15 Ms. October, are you aware that October 15, 2019, is
16 approximately two weeks before this trial started?

17 A. Yes.

18 Q. Are you aware that that date, the filing of these tax
19 returns occurred approximately one year after the defendant was
20 arrested?

21 A. Yes.

22 MS. LOZANO: One moment, your Honor. I have no
23 further questions. Thank you, Ms. October.

24 MR. GARVIN: One or two follow up.

25 RE CROSS EXAMINATION

JBJ3SCO3

1 BY MR. GARVIN:

2 Q. Ms. October, you have a background with the IRS, correct?

3 A. I worked for the IRS as a contractor for 18 months.

4 Q. You know that October 15 is the deadline for filing a tax
5 return, correct?

6 A. For extensions.

7 Q. And that if you made money at all, at any point in time
8 during 2018, you have to file that tax return no later than
9 October 15, 2019, correct?

10 A. Right.

11 Q. If you file it on October 15, 2019, then you are complying
12 with the mandate of the Internal Revenue Service laws; isn't
13 that correct?

14 A. Yeah.

15 MR. GARVIN: I have no further questions, thank you.

16 THE COURT: Ms. October, you may step down.

17 THE WITNESS: Thank you.

18 (Witness excused)

19 THE COURT: Government, please call your next witness.

20 MR. DiMASE: Your Honor, we have some exhibits to
21 introduce before the next witness.

22 THE COURT: Okay.

23 MR. DiMASE: First I'd like to offer again Exhibits
24 506 through 513, and 517 through 537.

25 MR. DEVLIN-BROWN: No objection.

JBJ3SC03

1 THE COURT: They will be received.

2 (Government's Exhibit 506 through 513, 517 through 537
3 received in evidence)

4 MR. DiMASE: I would also offer exhibits 1363 and
5 1125, and if counsel would like to see them we can show each of
6 them on the screen briefly.

7 MR. DEVLIN-BROWN: Could you. Can we see them again.

8 MR. DiMASE: Sure.

9 MR. DEVLIN-BROWN: No objection.

10 THE COURT: They will be received.

11 (Government's Exhibit 1363, 1125 received in evidence)

12 MR. DiMASE: And the government also offers Exhibits
13 1226, 1289, 1134, and 1007.

14 MR. DEVLIN-BROWN: One second. Would you mind going
15 back to 1226. Can we see 1134 and 1007.

16 No objection, other than with respect to Government
17 Exhibit 1007, that also had been marked, as the Court knows, as
18 Defense Exhibit 103. We'd like it introduced under both
19 numbers.

20 THE COURT: Very well. Those exhibits will be
21 received.

22 (Government's Exhibit 1226, 1289, 1134, 1007 received
23 in evidence)

24 MR. DiMASE: We'd like to publish these to the jury.

25 THE COURT: Very well.

JBJ3SC03

1 MR. DiMASE: Can we publish 1007, please.

2 This is an e-mail from at the bottom Dr. Ruja Ignatova
3 to Mark Scott copying Irina Dilkinska. Subject "legal brief."
4 Dated October 13, 2015. In which Ignatova says: "Dear Mark,
5 thank you for the good call. It was a pleasure to speak to
6 you. I copy Irina Dilkinska on this e-mail. She is the head
7 of legal in our company and will be able to provide you with
8 all background information on the companies and documents. As
9 I spoke with Gilbert I told him we have several needs to
10 address. One. Asset protection. The business is profitable
11 and I have some personal assets that I want to protect from
12 several risks, be it a lawsuit, be it divorce and so on. Two.
13 Business, OneCoin. Here we are in two tricky fields. One is
14 network marketing, which people often confuse with Ponzi and
15 other illegal ways of doing business. Every market is
16 different. Some markets need a license to operate. We take
17 sometimes deliberate risks to operate in markets without
18 licenses. I would like to protect the network part wherever I
19 can. Cryptocurrency, the legislation and regulation is
20 changing fast. The U.S. now classified cryptocurrency as
21 commodities. We need to know which regulations we need to
22 comply, which changes to make, etc. I would like as much as
23 possible to split my business legally in cryptocurrency, the
24 coins. Network company in Gibraltar, Dubai, for biggest cashes
25 in, and operations company called One Network Services in

JBJ3SC03

1 Sofia, Bulgaria. Restructuring would be easy as this companies
2 have no real assets except the IT system and database. I need
3 hands on advice, something that let me operate my business as
4 much as possible within legal frameworks and biggest risks are
5 reduced. Being outside legality in China does not concern me.
6 But risk not being "legal" in U.S.A. I would take extremely
7 serious. I'm sure you get my point. Other businesses. We
8 have several other businesses which I treat differently as
9 personal assets. Some private equity like investments. Here
10 I'm also looking for anonymity and asset protection. I have
11 shares in some software ventures, agriculture projects and so
12 on. Gilbert told me we would work together also with another
13 lawyer Robert Courtneidge. Please let me know your thoughts on
14 how we could work together and approach the problems also
15 charges, etc. Best, Ruja."

16 To which Mr. Scott then forwards this e-mail to Mark
17 Scott from his Locke Lord e-mail account writing "FYI" and
18 Mr. Armenta responds "Yes, good for you. Call me, please. All
19 the best. Gilbert Armenta."

20 Let's go to Exhibit 1289. At the top, just focusing
21 on the top two e-mails, this is an e-mail dated December 13,
22 2016 from NajibKassis@RavenR.com to Mark S. Scott copying Max
23 von Arnim and David Pike. Subject "KYC for potential
24 investment."

25 "Hi Mark, please find attached our investment memo.

JB33SC03

1 We have preliminary approval for the investment and will get
2 final sign off once we pass KYC. Best, Najib."

3 To which Mr. Scott responds to David Pike on 12/29/16,
4 "The possible link to OC will kill this for us. I will
5 terminate the opportunity slowly and for several other
6 reasons."

7 Showing Government Exhibit 1134 in evidence. This is
8 an e-mail from at the bottom Mark Scott -- I'm sorry from
9 Irina@OneCoin to Mark Scott copying Ruja@OneCoin. "Good
10 evening, Mark. Please find all I have for the company in
11 question. Let me know if I can be of any help further." To
12 which Mr. Scott responds on -- that was July 6, 2016. To which
13 Mr. Scott responds on July 7, "Do we have any general
14 information on the oil field at all?" Dr. Ruja Ignatova
15 responds to Mark Scott copying Irina Dilkinska, "Yes, you need
16 it? Best regards, Dr. Ruja."

17 Take that down. And finally Government Exhibit 1226.
18 If we can go to the second page. That e-mail right there,
19 Mr. Barile. An e-mail from Irina Dilkinska at RavenR to Mark
20 Scott and David Pike copying Joanna Allinson at RavenR. Funds
21 coming to DB. August 12, 2016. "Mark, funds are coming from
22 IMS Singapore. Please as I have asked in my e-mail to you
23 earlier today send me the exact information. What date do you
24 want on the letter? Confirm if letter must be from BN. What
25 is the amount that I have to put in the letter? Is the payment

JBJ3SC03

1 addressed to Cayman."

2 The next e-mail up in the thread Mark Scott responds
3 to Irina Dilkinska and David Pike copying Joanna Allinson on
4 August 12, 2016. "Hi Irina, this is not going to work so
5 easily. The moneys have to be allocated to the investors that
6 are signing the subscription packages. We can't just use IMS
7 as the central bank. How are we going to explain assignments
8 from one source to multiple parties? I suggest that we assign
9 all the incoming funds to one investor. I would suggest BN as
10 DD is almost complete pending your packages sent to me. I
11 suggest another authorization letter from BN to IMS dated last
12 week asking to transfer the euro 20 mio in tranches for all the
13 funds still coming from IMS. We should have know this before.
14 We thought every other subscriber than BN sending their own
15 funds such as Star did. Best, Mark."

16 One moment. Thank you, your Honor. We have one more
17 exhibit to offer and then we'll call the our next witness.

18 MR. FOLLY: The government offers Government Exhibit
19 3305 if we can just publish that to the parties.

20 MR. DEVLIN-BROWN: Can we just speak for a second. No
21 objection, other than what we may have raised previously on
22 this one.

23 THE COURT: Very well. It will be received.

24 (Government's Exhibit 3305 received in evidence)

25 MR. FOLLY: Your Honor, at this time the government

JBJ3SC03

Fata - Direct

1 calls Special Agent Kristine Fata.

2 THE COURT: Mr. Folly.

3 MR. FOLLY: Thank you, your Honor.

4 KRISTINE FATA,

5 called as a witness by the Government,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. FOLLY:

9 Q. Good afternoon.

10 A. Good afternoon.

11 Q. Where do you work?

12 A. I work with IRS Criminal Investigations.

13 Q. What is your title there?

14 A. I'm a special agent.

15 Q. How long have you been a special agent?

16 A. For approximately 20 years.

17 Q. What are some of your main duties and responsibilities as a
18 special agent for IRS Criminal Investigations?

19 A. I'm responsible for conducting criminal investigations of
20 violations of federal tax laws and related financial crimes.

21 Q. As part of your duties, do you also participate in searches
22 and seizures?

23 A. I do.

24 Q. Can you explain what that means.

25 A. A search warrant or a seizure warrant is issued by a U.S.

JBJ3SC03

Fata - Direct

1 magistrate. I go to the location and execute the search
2 warrant or the seizure warrant where we take custody of
3 whatever items are listed in either of those.

4 Q. What types of tasks do you typically perform during
5 searches and seizures?

6 A. I can, if it is a seizure warrant, I would go and identify
7 what the item is, make sure it matches what's listed in the
8 seizure warrant and then fill out required paperwork. Leave a
9 copy of the warrant at the location, and arrange and take
10 custody of that, that property.

11 And a search warrant, we'd go into the residence or
12 business, whatever the location is, and perform a safety sweep
13 of the location, and then search the areas that we are allowed
14 to search, and seize whatever items are listed in that search
15 warrant.

16 Q. Did there come a time when you participated in a search and
17 seizure at a residence of Mark Scott?

18 A. Yes.

19 Q. When was that?

20 A. That was September 5 of 2018.

21 Q. Did you also participate in the arrest of Mark Scott on
22 that same day?

23 A. Yes, I did.

24 Q. Do you see Mark Scott in the courtroom here today?

25 A. Yes, I do.

JBJ3SC03

Fata - Direct

1 Q. Can you identify him by indicating where he is seated and
2 an article of clothing he's wearing?

3 A. He's at that table. He's just stood up wearing a suit.

4 MR. FOLLY: Let the record reflect the witness has
5 identified the defendant Mark Scott.

6 THE COURT: The record will so reflect.

7 Q. Before we go through the details of the events on the day
8 of the arrest, can you provide an overview of what happened on
9 that day?

10 A. I attended a preoperational briefing at the Barnstable
11 Police Department. And after that, we went to execute the
12 arrest of Mark Scott, and then I went to seize Mark Scott's
13 yacht. And I went back to his house to seize a Porsche.

14 Q. What was your first task on the day of his arrest?

15 A. To assist in the arrest.

16 Q. You mentioned that the day began with a pre-operation
17 meeting?

18 A. Yes.

19 Q. Approximately when was that?

20 A. Approximately 5:30 in the morning.

21 Q. What happened after that pre-operation meeting?

22 A. After that, we went to Mark Scott's residence, which is
23 where I believed he was at that time. But as we were traveling
24 there, at some point we learned that he wasn't at that
25 location. So, we pulled over into a marina that wasn't far

JBJ3SC03

Fata - Direct

1 from the police station, and we waited there until we had more
2 information.

3 Q. Were you alone or were you with other law enforcement
4 officers?

5 A. No, other officers and agents.

6 Q. What was the next thing that happened?

7 A. Then we learned Mark Scott was going to be driving on that
8 road at some point. And he was pulled over, and we executed
9 the arrest, we arrested him.

10 Q. What happened after Mark Scott was placed under arrest?

11 A. He was driven back to the police station, and then I
12 interviewed him with another agent at the police station.

13 Q. Was that the Barnstable Police Station?

14 A. Yes.

15 Q. You mentioned that after you got back to that Barnstable
16 Police Station, that you participated in an interview of the
17 defendant; is that correct?

18 A. Yes.

19 Q. Were you alone or were you with anyone else for that
20 interview?

21 A. No, I was with an FBI agent.

22 Q. What was that FBI agent's name?

23 A. James Eckel.

24 Q. Is that interview video recorded?

25 A. It was.

JBJ3SC03

Fata - Direct

1 Q. If you could look next to you at the disc which is marked
2 with Government Exhibit's 601A, 601B, 601C, 601D, 601F, 601G,
3 and 601H, as well as 601-TR. Do you recognize that disc with
4 the exhibits I just listed?

5 A. I do.

6 Q. How do you recognize them?

7 A. I reviewed it and I initialed it.

8 Q. What is contained on that disc?

9 A. They are videos of parts of the interview, and there is a
10 transcript of the interview.

11 MR. FOLLY: The government offers the exhibits on that
12 disc that I just listed.

13 MR. GARVIN: Your Honor, we have nothing other than
14 what we raised in limine, so we have no objection.

15 THE COURT: Very well. They will be received.

16 (Government's Exhibit 601A, 601B, 601C, 601D received
17 in evidence)

18 (Government's Exhibit 601F, 601G, 601H, 601-TR
19 received in evidence)

20 MR. FOLLY: Before we turn to the videos that are
21 referenced on that disc, Mr. Barile, if you could publish
22 what's in evidence as Government Exhibit 2284 at page two. If
23 you could enlarge that first paragraph. It is an e-mail from
24 Mark Scott to Paul Spendiff on August 10, 2016. The second
25 sentence of the e-mail reads, "Money is not held on behalf of

JBJ3SC03

Fata - Direct

1 OneCoin clients, it is OneCoin's money."

2 You can take that down.

3 Mr. Barile, if you could publish 601A along with the
4 portion of the transcript from 601-TR.

5 (Video recording playing)

6 MR. FOLLY: Mr. Barile, if you could publish 601B and
7 the transcript for that.

8 (Video recording playing)

9 MR. FOLLY: Mr. Barile, if you could publish 601C.

10 (Video recording playing)

11 THE COURT: Let's take our second break. 15 minutes.
12 don't discuss the case.

13 (Jury excused)

14 (Continued on next page)

JBJ3SC03

Fata - Direct

1 THE COURT: Agent, you may step down. Everyone can be
2 seated.

3 Just so you know, they asked again whether we were on
4 track to finish this week. We told them yes. They didn't
5 believe us. Just so you know. Anything else?

6 We do have the jury charge. If there are going to be
7 any other changes, if you see any typos or grammatical errors,
8 get them to chambers by no later than 5 o'clock this evening.
9 We're going to go with what you have otherwise. Please get me
10 a copy of the indictment.

11 I take it there is no objection to the verdict form?

12 MR. DEVLIN-BROWN: Other than the issue I raised
13 orally, but I'm not going to write on it.

14 THE COURT: Very well. Don't be late.

15 MR. FOLLY: We wanted to inquire, does the defense
16 intend to put any additional witnesses on today?

17 MR. GARVIN: Yes. As we said yesterday, we have two
18 people from out of town that are in the hallway. They've been
19 here all morning. One of them has been here since Saturday.
20 So we're hoping as soon as the government rests to put them on
21 very quickly. I expect them to be shorter than Mr. de la
22 Portilla was yesterday. And I'm hoping to have both of them
23 out the door before 2:30 because they have airplanes.

24 THE COURT: They will be out of the door at 2:30.
25 Whether they come back is another matter.

JBJ3SC03

Fata - Direct

1 (Recess)

2 MR. DiMASE: The government has a proposed change to
3 the jury instructions.

4 THE COURT: Okay. What is it?

5 MR. DiMASE: On page 21, your Honor.

6 THE COURT: Okay.

7 MR. DiMASE: And in paragraph four here.

8 THE COURT: Yes.

9 MR. DiMASE: We would propose adding after the
10 intentional concealment of material facts, the following
11 language. We would propose to add "which made what was said
12 under the circumstances misleading."

13 THE COURT: Any objection to that?

14 MR. DEVLIN-BROWN: I believe this is an issue we
15 raised yesterday. We prefer our language and would stand by
16 that, but I think this better than what the Court had before.

17 THE COURT: So this is like the third line up from the
18 bottom of that paragraph? "The intentional concealment of
19 material facts which made what was said under the circumstances
20 misleading."

21 MR. DiMASE: That's correct and I'm taking that
22 language, your Honor, from the District Court case in Petrossi
23 which was upheld by the Second Circuit in September of 2019.

24 (Jury present)

25 THE COURT: Mr. Folly.

JBJ3SC03

Fata - Direct

1 MR. FOLLY: Thank you, your Honor. Mr. Barile, if you
2 could now publish 601D along with the transcript.

3 (Video recording playing)

4 MR. FOLLY: If we could publish 601F.

5 (Video recording playing)

6 MR. FOLLY: Go to 601G.

7 (Video recording playing)

8 MR. FOLLY: And 601H.

9 (Video recording playing)

10 MR. FOLLY: At this time government offers Government
11 Exhibit 1307 if we can show that first to the parties only.

12 MR. DEVLIN-BROWN: No objection.

13 THE COURT: 1307 will be received.

14 (Government's Exhibit 1307 received in evidence)

15 MR. FOLLY: You can publish that to the jury and zoom
16 in on the top two e-mails, Mr. Barile. Bottom e-mail, the
17 first e-mail in the chain is from Irina Dilkinska to Mark Scott
18 dated March 28, 2017. It say "Thank you. Please advise on the
19 transfers and situation. Regards, Irina."

20 In response, Mark Scott writes, "We cannot move for a
21 while. We just received another request for additional source
22 of wealth for you, Starz and Frank Ricketts. I am speaking to
23 our attorneys on how to block. Things are not looking good. I
24 am asking the boss to hold still. They know pretty sure OC/OL
25 behind it. May raise serious AML anti-money laundering

JBJ3SC03

Fata - Direct

1 issues."

2 You can take that down.

3 Q. Special Agent Fata, after the interview was completed, what
4 happened next on that same day?

5 A. Then I went to the Hyannis marina to seize Mark Scott's
6 yacht.

7 Q. What happened when you went to seize the yacht?

8 A. I spoke to the dockmaster, another individual that worked
9 there, they showed me where the yacht was. I went and took
10 photographs of the yacht. Pulled out some paperwork, and left
11 copies of the paperwork.

12 Q. Did you in fact execute the seizure of the yacht?

13 A. Yes.

14 Q. How did that work?

15 A. I served the seizure warrant, and I filled out the
16 paperwork.

17 Q. Did you take any photographs while you were at the marina?

18 A. Yes, I did.

19 MR. FOLLY: Mr. Barile, if you could publish for the
20 witness and the jury what's in evidence as Government Exhibit
21 107.

22 Q. Ms. Fata, do you recognize that?

23 A. I do.

24 Q. What is shown in that?

25 A. That is Mark Scott's yacht.

JBJ3SC03

Fata - Direct

1 Q. After executing the seizure of Mark Scott's yacht, what did
2 you do next?

3 A. Then I went to his residence to execute the seizure of Mark
4 Scott's Porsche, one of the Porsches.

5 Q. Where was that residence located?

6 A. That was at 133 Sunset in Barnstable, Massachusetts.

7 Q. At the time you arrived at Scott's residence, were there
8 other law enforcement officers already there?

9 A. There were.

10 Q. What were they doing at that time?

11 A. They were finishing up the search warrant of the residence.

12 Q. What did you do when you arrived at Scott's residence?

13 A. I took photos of the Porsche. There were two that were
14 there so I checked the VIN number, took photographs of it, and
15 I waited for the tow truck driver to come and transport it.

16 MR. FOLLY: Mr. Barile, if could you publish for the
17 witness what's been marked as Government Exhibit 106.

18 Q. Special Agent Fata, do you recognize this?

19 A. I do.

20 Q. What is it?

21 A. It's Mark Scott's Porsche.

22 Q. How do you recognize it?

23 A. I took that photo.

24 MR. FOLLY: Your Honor, this may already be in
25 evidence, but if it's not, the government offers Government

JBJ3SC03

Fata - Direct

1 Exhibit 106.

2 MR. GARVIN: No objection.

3 THE COURT: 106 will be received.

4 (Government's Exhibit 106 received in evidence)

5 MR. FOLLY: If we can publish that to the jury.

6 Q. Special Agent Fata, if you could read aloud what's listed
7 on the license plate of the car.

8 A. MSSI-2.

9 MR. FOLLY: Mr. Barile, if you can publish what's in
10 evidence as Government Exhibit 105 for the witness and the
11 jury.

12 Q. Special Agent Fata, do you recognize what's shown in this
13 series of photographs?

14 A. I do.

15 Q. What is shown in them?

16 A. That's Mark Scott's residence in Barnstable.

17 Q. Is that the same residence where you executed the seizure?

18 A. Yes.

19 MR. FOLLY: Mr. Barile, if you could publish through
20 these photographs. We can take that down.

21 Q. Special Agent Fata, after you finished with the seizure of
22 the Porsche, what happened at that point?

23 A. I asked the -- I left copies of the warrant in the kitchen,
24 on the counter, and I asked the agents if they needed any help
25 but they were just about done, and as I was walking out, there

JBJ3SC03

Fata - Cross

1 was a gentleman that was walking up to the house, and his name
2 was David Pike and I interviewed him.

3 Q. Special Agent Fata, aside from your participation with the
4 seizures and the arrest that you have been describing to us,
5 have you had any additional involvement in this investigation
6 of Mark Scott?

7 A. No.

8 MR. FOLLY: No further questions.

9 THE COURT: Any cross-examination?

10 MR. GARVIN: A little bit, yes, your Honor.

11 CROSS-EXAMINATION

12 BY MR. GARVIN:

13 Q. Good afternoon, Special Agent Fata.

14 A. Good afternoon.

15 Q. When you went to Mark Scott's on the day to execute the
16 search warrant and the arrest warrant, I believe you testified
17 that Mr. Scott was not home. Is that correct?

18 A. That's correct.

19 Q. It would be accurate to say that usually the execution of
20 search warrants are done very early in the morning if possible;
21 is that correct?

22 A. That's correct.

23 Q. And the reason for that is you want to make sure that the
24 person is home, right?

25 A. It depends on the case.

JBJ3SC03

Fata - Cross

1 Q. In this particular instance, you were headed that way, it
2 was approximately 5 o'clock in the morning, correct?

3 A. No.

4 Q. What time was it?

5 A. I believe it was close to 6 o'clock.

6 Q. Okay. So --

7 A. Or a little after 6 o'clock.

8 Q. I'm sorry for talking over you. Go ahead.

9 A. Or a little after 6 o'clock. I know it wasn't 5 a.m.

10 Q. Approximately 6 o'clock, and you got word on the radio that
11 Mr. Scott was not there, correct?

12 A. No. I didn't have a radio. I heard from somebody I called
13 or some other law enforcement officer, but we didn't have a
14 radio.

15 Q. Somebody notified you to slow up, I think you said you
16 pulled over, to slow up because he wasn't there?

17 A. Yes.

18 Q. So, when you finally did see Mr. Scott, did you understand
19 that he had not been sleeping for quite a while?

20 A. No.

21 Q. When they executed the search warrant, did you see his CPAP
22 equipment because he has sleep apnea?

23 A. I wasn't at the house.

24 Q. Did the other agents inform you that Mr. Scott suffers from
25 sleep apnea?

JBJ3SC03

Fata - Cross

1 A. No.

2 Q. When you arrived there, and you saw Mr. Scott, when you saw
3 his -- as we saw on the pictures there, when you saw his
4 general demeanor, the look in his eyes, did you ever ask him
5 when the last time it was that he slept?

6 A. That was not a question I asked him.

7 Q. Did it ever come up that he looked like or appeared to be a
8 person who had sleep deprivation?

9 A. No.

10 Q. Since that time that you executed the warrant, have you now
11 learned that, indeed, he does suffer from sleep apnea?

12 A. No.

13 Q. How long was the interview that we just saw excerpts of?

14 A. Approximately one hour.

15 Q. During that period of time, did you at any time tell
16 Mr. Scott to speak with you was a one-time opportunity?

17 MR. FOLLY: Objection, your Honor.

18 THE COURT: Sustained.

19 Q. Did you --

20 MR. GARVIN: Your Honor, may I have a sidebar?

21 THE COURT: Sure.

22 (Continued on next page)

JBJ3SC03

Fata - Cross

1 (At the sidebar)

2 MR. GARVIN: Your Honor, I was going to the
3 credibility of the witness, she told Mr. Scott "So this is your
4 one opportunity. You have a small child at home. You have
5 your wife. I'm sure you have a life that you want to live.
6 This is your one opportunity to help yourself. So just think
7 about that for a moment before you answer."

8 Now, my question was to her, did you tell Mr. Scott
9 that this was his one opportunity. And I was exploring to see
10 if the witness was going to answer yes or no. Because if the
11 witness answered no, then I intended to impeach her and show
12 what her credibility was or I think that might affect her
13 credibility.

14 I don't believe there is a reason not to ask her what
15 she said to the defendant. I'm not asking what the defendant
16 said or going into any of the search, but I do think this is
17 something that is permissible in cross-examination.

18 MR. FOLLY: Your Honor, two points. One is that the
19 issue of what portions of the video are admissible at this
20 trial has been litigated. There was briefing, there was
21 argument. The ruling stands on that. There is no reason to
22 revisit that ruling.

23 The second piece of this is that the video, to the
24 extent anything is going to be discussed with this witness,
25 speaks for itself. It's video recorded. The portions that are

JBJ3SC03

Fata - Cross

1 in, are in. And for those reasons, there should not be
2 questions about portions of the video that are not before this
3 jury and will not be coming before this jury.

4 THE COURT: The purpose for which you said you were
5 going to use it, Mr. Garvin, that same could be said of any
6 question that she asked, right? So you can get in that fashion
7 any aspect of that transcript that has been litigated in the
8 past.

9 MR. GARVIN: Well, we litigated before, your Honor,
10 because we were trying to put in statements that were favorable
11 to Mr. Scott. And we said that that was under the rule of
12 completeness.

13 I'm not trying to put in anything that Mr. Scott said
14 here, sir. I'm only trying to see if she will concede what she
15 told Mr. Scott, and I'm only limiting it actually to whether or
16 not they told him it was his one-time opportunity, because
17 quite frankly, I don't believe it was his one opportunity. I
18 thought, I think they were being less than candid with
19 Mr. Scott, and I think the fact that they were being less than
20 candid with Mr. Scott is something the jury can take into
21 consideration.

22 THE COURT: I am going to stick by the prior ruling.

23 MR. GARVIN: Yes, sir.

24 (Continued on next page)
25

JBJ3SC03

1 (In open court)

2 BY MR. GARVIN:

3 Q. Just a few more questions, ma'am.

4 A. Sure.

5 Q. During your interview with Mr. Scott, it would be fair to
6 say that he did answer most all of the questions that were
7 posed to him. Is that correct? I'm only limiting it to what
8 we saw on the screen here.

9 A. Yes.

10 Q. Okay. And even though it did seem to take some time for
11 him to respond, didn't it, did it appear that way to you while
12 you were watching this video?

13 A. No.

14 MR. GARVIN: No further questions, thank you.

15 THE COURT: Any redirect?

16 MR. FOLLY: No redirect, your Honor.

17 THE COURT: Agent Fata, you may step down.

18 (Witness excused)

19 THE COURT: Does the government have another witness?

20 MR. FOLLY: Your Honor, we do not have any additional
21 witnesses. We'd ask just momentarily if the jury could step
22 out and we could raise a couple issues with your Honor.

23 THE COURT: Very well. Ladies and gentlemen, we are
24 going to take a quick break and we'll bring you back out when
25 we're done.

JBJ3SC03

1 (Jury excused)

2 THE COURT: Everyone can be seated. Does the defense
3 wish to make a motion?

4 MR. DEVLIN-BROWN: Has the government rested?

5 MR. FOLLY: Your Honor, there is just two issues we
6 wanted to flag. With the Court's permission, with defense
7 counsel's permission, we'd just request that we can correct the
8 splicing of the videos that were played to the jury. There is
9 a couple instances where there is like a half sentence that got
10 cut off on the actual video which is reflected on the text.
11 And we'd just like to make those revisions today so that the
12 actual exhibit available to the jury, if they would like it, is
13 the corrected version of that.

14 THE COURT: Okay.

15 MR. DEVLIN-BROWN: No problem with that, of course,
16 other than the prior objections.

17 MR. FOLLY: Your Honor, the second issue is just with
18 respect to those exhibits listed on the timeline. I know we
19 keep revisiting this. But we just want to make sure that they
20 are clearly reflected in the record as being admitted into
21 evidence. And we've been speaking with court reporter about
22 the best way of doing that so the court reporter can avoid
23 manually having to type in every single exhibit that is listed
24 there. As long as there is a clear record on this, the
25 government does not have any issue, but we want to make sure

JBJ3SC03

1 that that is in.

2 THE COURT: Can we make that an exhibit?

3 MR. FOLLY: We would be happy to, your Honor.

4 THE COURT: Does that take care of it?

5 MR. DEVLIN-BROWN: Maybe a court exhibit, your Honor.

6 I don't know it should be sent back to the jury.

7 THE COURT: I would be happy to make it a court
8 exhibit as long as there is no objection to its contents.

9 MR. GARVIN: No objection, your Honor.

10 THE COURT: We'll make it Court Exhibit No. 1.

11 What else?

12 (Court Exhibit 1 received in evidence)

13 (Continued on next page)

JBJ9SCO4

1 MR. FOLLY: Your Honor, there's nothing additional
2 from the government for purposes of addressing any motion.
3 We're happy to rest here but we would, obviously, like to rest
4 in front of the jury.

5 THE COURT: I thought that's what we were going to do.
6 Does the government rest?

7 MR. FOLLY: Yes, your Honor.

8 THE COURT: OK.

9 MR. DEVLIN-BROWN: We do make such a motion.

10 With your Honor's permission, we have the two
11 character witnesses. We could discuss it after they leave.

12 THE COURT: Very well. Bring the jury back up. My
13 intention is let them go early and tell them we're going to sum
14 up tomorrow assuming that these two witnesses -- hold on,
15 Ms. Rivera.

16 MR. DEVLIN-BROWN: We do plan to publish some exhibits
17 tomorrow morning and perhaps have our own paralegal take the
18 stand and go through them but it's not going to be more than a
19 half-hour or so exercise. It's not an all-day affair.

20 THE COURT: Can that happen today?

21 Assuming these two witnesses are off in a half-hour?

22 MR. DEVLIN-BROWN: It could. We could start it. We
23 also have some exhibits we want to move into evidence.

24 THE COURT: Well let's see -- we can go to 2:30 today.
25 But we're summing up tomorrow and I think the parties really

JBJ9SCO4

1 need to think about making it a one-hour or
2 one-hour-and-fifteen-minute summation because otherwise the
3 jurors are going to start to get very angry. Let's bring them
4 back out and the government can rest.

5 (Continued on next page)

JBJ9SCO4

Zaffuto - Direct

1 (Jury present)

2 THE COURT: Mr. Folly.

3 MR. FOLLY: Your Honor, at this time the government
4 rests.

5 THE COURT: Ladies and gentlemen, the government has
6 completed its presentation of the evidence. As you know
7 Mr. Scott does not have to put on a case at all. He already
8 has put on a witness. We will ask him now whether he plans to
9 call any other witnesses.

10 Mr. Garvin.

11 MR. GARVIN: Yes, your Honor. Mr. Scott would call
12 Warren Zaffuto.

13 THE COURT: Sir, please step forward. Come over here
14 to my left. Step up into the witness stand. And watch your
15 step.

16 WARREN ZAFFUTO,

17 called as a witness by the Defendant,

18 having been duly sworn, testified as follows:

19 THE COURT: Mr. Garvin.

20 MR. GARVIN: Thank you, your Honor.

21 DIRECT EXAMINATION

22 BY MR. GARVIN:

23 Q. Good afternoon, Mr. Zaffuto.

24 A. Good afternoon.

25 Q. Could you please tell the ladies and gentlemen of the jury

JBJ9SCO4

Zaffuto - Direct

1 what your occupation is, sir?

2 A. I'm an attorney.

3 Q. And how long have you been an attorney?

4 A. I graduated from law school in 2000 and I've been working
5 down in Florida since about 2003, 2004.

6 Q. A little bit over fifteen years?

7 A. I believe that's correct, yes.

8 Q. And can you tell the ladies and gentlemen some of the law
9 firms that you have worked with, sir?

10 A. Sure. First I clerked after law school at some point for
11 two different judges. Then I moved to Florida. I think I
12 moved to Florida sometime in 2003. I worked for a labor
13 employment law firm specializing in that area. Do you want the
14 name of the firm?

15 Q. Yes, please.

16 A. Fisher Phillips is the name of the firm. I probably was
17 there a couple of years.

18 And then I moved to a firm called Duane Morris. And I
19 was there approximately eight -- eight or nine years. And I
20 think I began at Duane Morris sometime in 2005.

21 And then after Duane Morris I went and worked for a
22 firm in Hollywood, Florida. The name of the firm is Phillips
23 Cantor. I can't recall the entire name. And I was there
24 approximately a year-and-a-half, two years.

25 And then left there and went and worked for another

JBJ9SCO4

Zaffuto - Direct

1 firm called Keller Landsberg in Fort Lauderdale. Was there for
2 approximately a year-and-a-half, two years as well.

3 And after that I started my own law firm.

4 Q. And you said that you clerked for some judges. I'm not
5 sure that everybody understands what that means. Could you
6 very briefly explain that.

7 A. Sure. At some point -- I think in the year 2001, 2002 I
8 believe is the timeline. I went to work as a law clerk for a
9 federal magistrate judge in Laredo, Texas. Essentially I
10 assisted the judge in different matters. And I did that for
11 one year.

12 And then after that I went and worked for another
13 judge, a U.S. district court judge in El Paso, Texas and did
14 that approximately one year as well.

15 Q. Now you mentioned that you worked for the law firm of Duane
16 Morris. How large of a firm is that? How many lawyers does it
17 have?

18 A. I think at the time I was there I would say it was quite
19 large. I don't know what the size of it is now. But I think
20 when I was there it was probably in excess of five hundred,
21 between five hundred and a thousand attorneys I believe.
22 Somewhere in that neighborhood. I really don't know. But
23 certainly I think it was more than five hundred.

24 Q. Did there come a time, sir, when you met a gentleman by the
25 name of Mark Scott?

JBJ9SCO4

Zaffuto - Direct

1 A. Yes.

2 Q. Is this the Mark Scott that we're talking about?

3 A. Yes.

4 Q. And will you please explain to us how did you come to meet
5 Mr. Scott?

6 A. Well, actually I was thinking about this today. I think
7 the very first time I met Mark, Mark was at a different firm.
8 I was at a holiday function. My wife worked at the same firm
9 that Mark worked at prior to coming to Duane Morris. And just
10 a brief encounter. I met him at a holiday party.

11 But I got to know Mark when he came to work at Duane
12 Morris. I was an associate there. And Mark was a partner.

13 Q. And did you just give us a very brief distinction what is
14 the distinction or interplay between an associate and a partner
15 at Duane Morris?

16 A. Sure. I was -- I did litigation and which is trial work,
17 that type of work. Mark was a corporate attorney and a
18 partner. He was basically I guess you could say my supervisor
19 in a certain sense, maybe not my direct supervisor but he
20 certainly, on certain cases would be considered that I think.
21 And an associate is -- I don't know how to describe the
22 distinction but it's more of an employee versus an owner I
23 guess maybe is the way of distinguishing.

24 Q. Did you have opportunities while Mark was there to work
25 together with Mark on certain legal projects?

JBJ9SCO4

Zaffuto - Direct

1 A. I did. Mark, as a corporate attorney, had matters that
2 would come up from time to time and he needed litigation
3 attorneys to handle. And sometimes he would come to me,
4 sometimes through other partners, but sometimes directly to me
5 on a handful of different cases through my time at Duane Morris
6 and then I would help either the partner that was in charge or
7 help -- or just handle the matter myself.

8 Q. Is there any specific matters that you can think of sitting
9 here today that you worked with Mark on?

10 A. Mark had -- I don't recall the name of the client but Mark
11 had a German client that was dealing what we call a Hague
12 Convention case. It was a case that was deciding not custody
13 of a child but where the child should be, whether the child
14 should be here in the United States or back in Germany, and I
15 assisted on that case. And Mark was involved heavily in that
16 case.

17 Q. In working with Mark did you formulate the character of
18 Mark? In plain words, did you come to know his character?

19 A. Yeah, I believe so. I always thought of Mark as a good
20 attorney, a very -- a good advocate for his clients. He -- as
21 somebody who was junior to him, he was somewhat demanding, but
22 I understood that and respected that and thought of him in a
23 positive light.

24 Q. Now I want to say ask you, you say somewhat demanding. Are
25 we talking about in a rude fashion or --

JBJ9SCO4

Zaffuto - Direct

1 A. Not at all. Not at all.

2 Again, I think Mark always tried to do good by his
3 clients and so he expected you to work as hard as he did. And
4 I think there's absolutely nothing wrong with that. I consider
5 it a positive trait, not a negative. And was never rude. Mark
6 was always professional.

7 Q. And how many years would you say that you were able to work
8 on and off with Mark on various projects?

9 A. You know, I can't -- unfortunately I can't recall. I know
10 I joined Duane Morris in 2005. I believe that was the year.
11 And I left sometime in I believe January of 2014, I believe.
12 And I don't recall when Mark joined Duane Morris but I would
13 say at least probably out of that time at least a couple of
14 years.

15 Q. During that period of time did you form an opinion with
16 regard to Mark's character as it relates to honesty and respect
17 for the law?

18 A. Yes. I did. I would say that I viewed Mark as I mentioned
19 before a good attorney and I saw him as an honest person, a
20 straight shooter, never doubted that.

21 Q. Were you familiar with his reputation in the law firm
22 amongst all of the other lawyers who knew him?

23 A. Well, I know he had a -- I guess I would say he had a
24 reputation for being a -- exactly what I just said, which is
25 being a straight shooter, doing well for his client, being

JBJ9SCO4

Zaffuto - Cross

1 somewhat of a demanding partner but not in a negative way,
2 always looking to do well for his clients and serve his clients
3 well which is why he was being paid.

4 Q. Sir, you understand that you are called here to give your
5 opinion as to what they call a character witness for Mr. Scott?

6 A. Yes.

7 Q. And with regard to Mr. Scott's honesty, what is your
8 opinion?

9 A. I believe he's an honest person.

10 MR. GARVIN: I have no further questions, sir. Thank
11 you.

12 THE COURT: Cross-examination.

13 CROSS-EXAMINATION

14 BY MR. FOLLY:

15 Q. Good afternoon, sir.

16 A. Hi.

17 Q. I'm just going to ask you a couple of brief questions.

18 A. Sure.

19 Q. You don't know anything about the facts of this case,
20 correct?

21 A. Very little. I did Google to see what was going on but I
22 maybe read one article and didn't really stick to me so I
23 don't.

24 Q. So putting aside, sir, what you Googled, you don't know
25 anything else about the facts of this case, correct?

JBJ9SCO4

Zaffuto - Cross

1 A. Not really, no. I may have discussed it with Mister --
2 with Mark's attorney briefly but otherwise no.

3 Q. And you also don't know anything about the evidence that
4 has been presented to this jury over the course of the last
5 several weeks, correct?

6 A. No. No. I don't know anything.

7 MR. FOLLY: No further questions, your Honor.

8 MR. GARVIN: Your Honor, we have no redirect.

9 THE COURT: Sir, you may step down.

10 THE WITNESS: Thank you, your Honor.

11 (Witness excused)

12 THE COURT: Mr. Garvin, did you have another witness?

13 MR. GARVIN: Yes, Robert Skorupa. And I believe
14 Ms. Stanley went to retrieve him.

15 MR. FOLLY: Your Honor, may we approach for a quick
16 moment before the next witness?

17 THE COURT: Sure.

18 (Continued on next page)

JBJ9SCO4

Zaffuto - Cross

1 (At sidebar)

2 MR. FOLLY: Your Honor, the government's view is that
3 honesty is absolutely an appropriate character trait but we
4 veered with the last two character witnesses into respect for
5 the law and law abiding and we don't believe that that's an
6 appropriate character trait to be having a witness offer
7 testimony to a jury about.

8 THE COURT: They were quick references but Mr. Garvin
9 try to stick to the traditional catechism.

10 MR. GARVIN: Yes, sir. Also I have been told that
11 Mr. Skorupa went to the men's room, your Honor.

12 MR. DEVLIN-BROWN: Could we maybe take one quick issue
13 now and hopefully he's back.

14 Your Honor may recall during the government's case we
15 cross-examined Agent Shimko and we wanted to ask him
16 essentially two further questions, whether he was also familiar
17 through his role as a case agent as to whether Mr. Armenta
18 attempted to contact under law enforcement direction Mr. Scott
19 by text, by voice mail, and those contacts were not returned.
20 And the reason that's important is to show that Mr. Scott is
21 not involved with these people, doesn't want to be involved as
22 of September, October 2017.

23 THE COURT: So what do you want to --

24 MR. DEVLIN-BROWN: I believe there's an objection.

25 MR. DiMASE: Yes.

JBJ9SCO4

Zaffuto - Cross

1 MR. DEVLIN-BROWN: So that would be a quick witness we
2 could do.

3 MR. DiMASE: Yes. The issue, your Honor, is unlike
4 the two calls that the government put into evidence that
5 Mr. Armenta made to Ms. Ignatov very early in the case, the
6 agents were not with Mr. Armenta when he made the call to Mark
7 Scott -- to Mark Scott's voice mail I guess I should say and
8 they were not with him when he texted back and forth with Mark
9 Scott. The call -- the voice mail call was recorded on an FBI
10 system so I don't know that there's any issue about it being
11 inauthentic but the evidence that Mr. Devlin-Brown seeks to
12 admit regarding the lack of a return call is completely
13 hearsay. It's not anything within the agent's personal
14 knowledge. Mr. Armenta was living in Florida at the time
15 recording calls at the direction of the agents not in their
16 presence, texting --

17 THE COURT: I'm sorry. Was he or was he not recording
18 calls at the direction of the agents?

19 MR. DiMASE: He recorded this voice mail at the
20 direction of the agents. They were not present with him in
21 Florida when he did so. He texted Mr. Scott at the direction
22 of the agents. He -- the agents were not with him when he did
23 so. They did not observe it. They don't know whether there
24 are additional text messages after that series of text
25 messages. I mean they can't testify to personal knowledge

JBJ9SCO4

Zaffuto - Cross

1 about or lack of contact after those messages.

2 MR. DEVLIN-BROWN: The government has produced both
3 the voice mail and the text. They were gathered in the
4 government's investigation. I don't need to offer them into
5 evidence. I can try to ask the question to make clear to your
6 personal knowledge was there a call back or was there a
7 response to the text.

8 MR. DiMASE: Well that's exactly the issue. That's
9 the inadmissible part. It's hearsay. It comes completely from
10 the witness, not from the agent. The lack of a call back is
11 information that the witness would know. If they want to call
12 Mr. Armenta they can.

13 MR. DEVLIN-BROWN: I think I'm being very limited in
14 what I'm trying to get out with Mr. Armenta. I think almost
15 everything a case agent says in some trials is hearsay and it's
16 permitted because it's part of the investigation and I think
17 it's just an important point.

18 THE COURT: So what -- so you want to ask him?

19 MR. DEVLIN-BROWN: I want to ask him in addition to
20 the -- you testified on the government case about calls placed
21 by Gilbert Armenta to Ruja Ignatova. Did you also -- did the
22 FBI also direct the call to be placed to Mr. Scott? Yes.
23 Did -- it went to voice mail? Yes. What about the text
24 message? Yes. We received a text message. Did Mr. Scott
25 respond to either of those as far as you know?

JB9JSC04

Zaffuto - Cross

1 THE COURT: To your knowledge.

2 MR. DEVLIN-BROWN: To your knowledge. Something to
3 that effect.

4 THE COURT: I'll allow that.

5 MR. DEVLIN-BROWN: If Mr. Skorupa is still in the
6 bathroom I can do it right now.

7 (Continued on next page)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

JBJ9SCO4

Shimko - Direct

1 (In open court)

2 MR. DEVLIN-BROWN: The defense calls government Agent
3 Shimko.

4 THE COURT: Mr. Shimko, you were previously put under
5 oath in this case. You are still under oath, OK.

6 THE WITNESS: Understood.

7 RONALD SHIMKO,

8 called as a witness by the Defendant,

9 having been previously sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. DEVLIN-BROWN:

12 Q. Good afternoon, Agent Shimko. How are you?

13 A. Good afternoon. Good. How are you?

14 Q. So when I was last speaking to you on the witness stand
15 during the government's case you testified, didn't you, about
16 calls that Gilbert Armenta placed to Ruja Ignatova when he was
17 cooperating with government investigators?

18 A. Correct.

19 Q. And in addition to the calls that you and other agents
20 directed him to place to Ms. Ignatov, I'm talking about the
21 time period say September, October 2017, OK?

22 A. Yes.

23 Q. So in addition to the calls that you directed him to place
24 to Ms. Ignatov during that time period did you also direct him
25 to reach out to other people of interest in the investigation?

JBJ9SCO4

Shimko - Direct

1 A. Yes.

2 Q. And are you aware that -- well, did you or other agents
3 suggest that Mr. Armenta reach out to Mr. Scott by voice --
4 reach out to Mr. Scott?

5 A. Not in September or October of 2017.

6 Q. Was in that in January of 2018?

7 A. I believe that's correct, yes.

8 Q. And did the agents direct Mr. Armenta to reach out to
9 Mr. Scott by phone in that period?

10 A. Yes.

11 Q. And based on your understanding was a voice mail left?

12 A. Yes.

13 Q. And based on your understanding from the investigation are
14 you aware of Mr. Scott ever returning Mr. Armenta's call?

15 A. I am not aware, no.

16 Q. And are you aware from the investigation that Mr. Armenta
17 reached out by text message as well to Mr. Scott?

18 A. Yes. It was a WhatsApp message.

19 Q. And again based on what you know as an investigator, any
20 record of Mr. Scott ever responding other than perhaps to say
21 don't want to talk?

22 A. Other than that, I don't have an understanding of another
23 message.

24 MR. DEVLIN-BROWN: No further questions.

25 MR. DiMASE: Very brief cross-examination.

JBJ9SCO4

Shimko - Cross

1 THE COURT: OK.

2 CROSS-EXAMINATION

3 BY MR. DiMASE:

4 Q. Agent Shimko, the calls that Mr. Armenta placed to
5 Ms. Ignatov that were played for the jury during this trial, is
6 it fair to say that those were from approximately September of
7 2017?

8 A. Correct.

9 Q. And is it fair to say that Ms. Ignatov disappeared in
10 October of 2017?

11 A. That's correct.

12 Q. And is it fair to say that there were subsequent public
13 coverage on the internet of Ms. Ignatov's disappearance?

14 A. Yes.

15 Q. And by the way has the FBI or the IRS been able to locate
16 Ms. Ignatov since that time?

17 A. Not currently.

18 Q. And the messages and calls that you indicated that
19 Mr. Scott -- Mr. Armenta had with Mr. Scott, that was
20 approximately three to four months after Ruja's disappearance
21 in January of 2018, correct?

22 A. Correct.

23 Q. And -- one moment.

24 (Counsel confer)

25 MR. DiMASE: Nothing further.

JBJ9SCO4

Skorupa - Direct

1 MR. DEVLIN-BROWN: Nothing further.

2 THE COURT: Agent Shimko, you may step down.

3 THE WITNESS: Thank you.

4 (Witness excused)

5 THE COURT: Call your next witness, please.

6 MR. GARVIN: Yes, your Honor. Robert J. Skorupa.

7 THE COURT: Sir, please step all the way forward.

8 Please watch your step. There may be wires on the floor. And
9 you're going to come all the way around to my left and step up
10 into the witness stand here right next to me.

11 THE WITNESS: Good morning, your Honor.

12 Good afternoon.

13 THE COURT: Step up into the witness stand. Remain
14 standing.

15 ROBERT SKORUPA,

16 called as a witness by the Defendant,

17 having been duly sworn, testified as follows:

18 THE COURT: Mr. Garvin.

19 MR. GARVIN: Thank you, your Honor.

20 DIRECT EXAMINATION

21 BY MR. GARVIN:

22 Q. Good afternoon, Mr. Skorupa.

23 A. Good afternoon.

24 Q. Can you please tell the ladies and gentlemen of the jury
25 what's your occupation, sir?

JBJ9SCO4

Skorupa - Direct

1 A. I'm a practicing attorney.

2 Q. And did there come a time when I called you and asked if
3 you could be a character witness on behalf of Mr. Mark Scott?

4 A. That's correct.

5 Q. And can you please give the ladies and gentlemen a little
6 bit of an understanding of your background. Let's start where
7 you live.

8 A. I live in Boston, Massachusetts, Back Bay area.

9 Q. Did you go to school in Boston or could you tell us where
10 you got your education?

11 A. I was born and bred in Rhode Island, went to college at
12 Northeastern University in Boston and I've been pretty much
13 there ever since.

14 Q. And where did you go to law school?

15 A. I went to get a juris doctorate from Suffolk Law School in
16 Boston and I participated in a negotiation project at Harvard
17 Law School in Cambridge, Massachusetts.

18 Q. What year did you become a lawyer?

19 A. 1978.

20 Q. And do you have any children, sir?

21 A. I have two sons.

22 Q. And what are their occupations?

23 A. One is a computer scientist, computer science person. And
24 the other one is a state police officer in Massachusetts.

25 Q. Are you in private practice, sir?

JBJ9SCO4

Skorupa - Direct

1 A. Yes, I am. I work for -- I practice -- sole practitioner.

2 Q. And how long have you been in private practice, sir?

3 A. I don't know exactly. I used to practice with my brother
4 and he passed away in the middle '80s and I think about since
5 that time.

6 Q. So over 20 years?

7 A. Yes.

8 Q. Did there come a period of time when you met Mr. Mark
9 Scott?

10 A. Yes. I've known Mark Scott since 1990s, 25 years.

11 Q. And have you had an opportunity to socialize with
12 Mr. Scott?

13 A. Certainly.

14 Q. And tell us how it came about that you had the opportunity
15 to meet Mr. Scott, if you recall.

16 A. To meet?

17 Q. To meet him.

18 A. We met socially through mutual friends. Back in --
19 sometime in mid 1990s. He lived in Boston at the time or in
20 the Boston environs and I did as well. And we became friends
21 and we remained good friends ever since.

22 Q. Do you happen to know where Mr. Scott was born and raised?

23 A. Well, I know part of his life his father was a U.S. soldier
24 and his mother was German. And one time in Germany he pointed
25 out an American military base, of what used to be an American

JBJ9SCO4

Skorupa - Direct

1 military base where his parents lived when he was young.

2 Exactly where -- whether he was born in Germany or the United
3 States, I'm not sure.

4 Q. Did you share any friends with Mr. Scott that were of
5 German nationality?

6 A. Yes. As a matter of fact that's I believe how I was
7 introduced to him through a friend of mine who was German and
8 Mark speaks German from his youth and that's how we were
9 introduced.

10 Q. Did you ever have occasion to represent Mark?

11 A. Yes. Mark's father was from Massachusetts which is one of
12 the states that I practice in. And his father passed away some
13 time around the year 2000 and I represented him in the probate
14 of his father's estate.

15 Q. During the estate -- well let me rephrase that.

16 Do you know whether or not Mark has had an affinity
17 towards watches and German automobiles?

18 MS. LOZANO: Objection. This is not character
19 evidence.

20 THE COURT: Overruled.

21 THE WITNESS: Well I would say -- I don't mean to be
22 glib but everyone has an affinity for nice automobiles and
23 watches and Mark certainly has always had one and the other.
24 As a matter of fact, I represented him during the probate. One
25 of the issues was his father's car and his father's watch,

JBJ9SCO4

Skorupa - Direct

1 which represented to him the loss of his father. And so he was
2 very concerned about getting those and keeping those.

3 Q. All right. And during the period of time that you have
4 known Mark and you have represented Mark have you had time to
5 form an opinion as to Mark's character?

6 A. Absolutely.

7 Q. And do you know of Mark's reputation amongst the community
8 that you know Mark who they also know Mark?

9 A. Mark has always had a reputation and was recognized as a
10 standup individual, smart, well-meaning, and the people that
11 have known him over the years are still friends with him which
12 I think is a sign of friendship.

13 Q. You have traveled with Mr. Scott; is that true?

14 A. Well I haven't traveled with him but I've -- there are
15 times I worked in Germany for a bit and I'd see him there and
16 occasionally into Florida. He moved to Florida at some point
17 after I met him and I would see him when I was down in Florida,
18 you know, we'd get together and have lunch or do things.

19 Q. In your representation of him and your knowledge of him, is
20 there any part of his reputation that would cast doubts in your
21 mind with regard to Mark Scott's integrity?

22 A. I would say none.

23 Q. Sir, finally, I would just simply ask: Do you have an
24 opinion with regard to Mark Scott as to whether he is an honest
25 person?

JBJ9SCO4

Skorupa - Cross

1 A. I absolutely do.

2 Q. And can you please tell the ladies and gentlemen what your
3 opinion is.

4 A. I've known Mark for a very long time and I'd say throughout
5 that period he's a person of the highest integrity.

6 MR. GARVIN: Thank you, sir. I have no further
7 questions.

8 THE WITNESS: Thank you.

9 THE COURT: Any cross-examination?

10 MS. LOZANO: Yes, your Honor.

11 CROSS-EXAMINATION

12 BY MS. LOZANO:

13 Q. Good afternoon, Mr. Skorupa.

14 A. Good afternoon.

15 Q. You don't have any personal knowledge regarding the facts
16 of this case, do you?

17 A. No. I've read and seen some things in the press but I have
18 no personal knowledge.

19 Q. And you aren't familiar with the evidence that has been
20 presented at this trial, correct?

21 A. Other than which I have seen something occasionally
22 mentioned in the press or, no, I have no personal knowledge of
23 what has been presented here at trial.

24 Q. And you don't have any personal knowledge about OneCoin or
25 how it worked, correct?

JBJ9SCO4

Skorupa - Redirect

1 A. I'm not sure what that is, one, please?

2 MS. LOZANO: Thank you. I have no further questions,
3 your Honor.

4 MR. GARVIN: Very briefly.

5 REDIRECT EXAMINATION

6 BY MR. GARVIN:

7 Q. Your Honor -- I mean excuse me. Mr. Skorupa, you do
8 recognize that you are in a federal court, right?

9 A. Oh, absolutely.

10 Q. And you have alluded to that you must have read something
11 in the newspaper; is that correct?

12 A. About the issue at trial? Yes. I've read --

13 MS. LOZANO: Objection, your Honor.

14 MR. GARVIN: I don't want you to say what you read.
15 That wasn't the question. I apologize, probably asked --

16 THE WITNESS: The answer is yes.

17 Q. The point is the fact that there has been something written
18 in the press or the fact that we are here in a federal
19 courthouse, does that change your opinion whatsoever as to what
20 the character of Mark Scott is and whether doing something that
21 was not honest would be out of character for him?

22 MS. LOZANO: Objection, your Honor. Outside the scope
23 of cross.

24 THE COURT: Overruled.

25 THE WITNESS: In my opinion based upon the character

JBJ9SCO4

Skorupa - Redirect

1 of Mr. Scott he's much more likely to have been the victim of
2 something like this rather than have been involved as a person
3 that participated in it.

4 MR. GARVIN: Thank you, sir. I have no further
5 questions.

6 MS. LOZANO: Your Honor, may we approach?

7 THE COURT: Sure.

8 (Continued on next page)

JBJ9SCO4

Skorupa - Redirect

1 (At sidebar)

2 MS. LOZANO: Your Honor the cross-examination was
3 limited only to questions that established this witness had no
4 knowledge about the facts of this case except what he reads in
5 papers and counsel inappropriately used it as an opportunity to
6 allow the witness to testify about character evidence yet again
7 even though the cross-examination was simply about his lack of
8 knowledge. And he used -- and he used the opportunity to
9 characterize that character testimony as he believed Mark Scott
10 to be a victim. That isn't character evidence. That isn't
11 whether he's truthful or not.

12 MR. GARVIN: Your Honor, the questions on redirect
13 were appropriate. They asked questions that elicited testimony
14 about what he read in the newspaper and I asked him if that
15 changed his opinion as to Mark Scott's character.

16 MS. LOZANO: We ask that it be stricken.

17 THE COURT: I'm not going to strike it.

18 (Continued on next page)

19
20
21
22
23
24
25

JBJ9SCO4

Skorupa - Redirect

1 (In open court)

2 MR. GARVIN: Your Honor, I have no further questions
3 of Mr. Skorupa.

4 THE COURT: Anything else, Ms. Lozano?

5 MS. LOZANO: No, your Honor.

6 THE COURT: Sir, you may step down.

7 THE WITNESS: Thank you, your Honor.

8 THE COURT: Safe travels.

9 THE WITNESS: Thank you.

10 (Witness excused)

11 THE COURT: Mr. Garvin, do you want to call your next
12 witness. Or Mr. Devlin-Brown.

13 MR. DEVLIN-BROWN: May I confer with counsel for just
14 a moment.

15 THE COURT: Yes.

16 (Counsel confer)

17 MR. DEVLIN-BROWN: Your Honor the defense calls
18 Michelle Julian.

19 THE COURT: Please watch your step and please remain
20 standing when you step up into the witness stand.

21 MICHELLE JULIAN,

22 called as a witness by the Defendant,

23 having been duly sworn, testified as follows:

JBJ9SCO4

Julian - Direct

1 DIRECT EXAMINATION

2 BY MR. DEVLIN-BROWN:

3 Q. Good afternoon Ms. Julian, where do you works?

4 A. Covington & Burling.

5 Q. Where do I work?

6 A. Covington & Burling.

7 Q. What's your job?

8 A. Senior litigation paralegal.

9 Q. And are you a paralegal assigned to this case?

10 A. I am not.

11 Q. Have you still helped out from time to time a little bit?

12 A. Yes.

13 Q. Have we met at all about what the questions I'm going to
14 ask you today?

15 A. We have not.

16 Q. Are you nervous about that?

17 A. No.

18 Q. OK. Good. So I'd like to show you -- well I'd like to
19 show them to the government. I'd like to admit three defense
20 or four defense exhibits at this time, Defense Exhibits 499A,
21 560, 561, and 562.

22 MR. DiMASE: Your Honor with redactions that we've
23 agreed to on 499A we have no objection.

24 THE COURT: Very well. They will be received.

25 (Defendant's Exhibits 499A, 560, 561, and 562 received

JBJ9SCO4

Julian - Direct

1 in evidence)

2 Q. So Ms. Julian, I'd like to see if we can put a few
3 documents on the screen.

4 MR. DEVLIN-BROWN: Ms. Stanley, do you think you can
5 do the government documents too. If you could publish
6 Government Exhibit 2035, please.

7 Q. So Ms. Julian if you see towards the bottom of the document
8 there's a date. Could you read that out, please?

9 A. February 2, 2016.

10 Q. And line item 3 says client matter. Number. Could you
11 just read the number.

12 A. 1515005.00011.

13 Q. And above that there's a matter name. Do you see that?

14 A. Yes.

15 Q. iCard?

16 A. Yes.

17 Q. What's the client's name here?

18 A. It looks like Zala.

19 THE COURT: Can the jury see that?

20 MR. DEVLIN-BROWN: Ms. Stanley, I'll ask one more
21 question.

22 Q. It says print name at the bottom. Do you see Mark Scott
23 there?

24 A. I do, yes.

25 MR. DEVLIN-BROWN: Could we publish Defense Exhibit

JBJ9SCO4

Julian - Direct

1 499A, please. Just the first page, please, Ms. Stanley.

2 I could always use the document. Maybe we should just
3 use the document. If someone could press lecturn.

4 Does it work now, Ms. Stanley? I guess unpress
5 lecturn.

6 I can just do this, I think.

7 THE COURT: I'm sorry. What's happening?

8 MR. DEVLIN-BROWN: I'm trying to figure that out as
9 well. I'm happy to do it on this as well. OK. Let's try
10 that.

11 Q. So this is Defense Exhibit 499-A. And I would like to show
12 you client information. Do you see what it says under client
13 information, Ms. Julian?

14 A. Yes.

15 Q. Could you read that out?

16 A. Zala Group Limited.

17 Q. And matter description. Do you see that?

18 A. Acquisition of iCard.

19 Q. And there is a client number listed there. Do you see
20 that?

21 A. Yes.

22 Q. And is that the same number that you read out a moment or
23 two ago?

24 A. Yes.

25 Q. And I guess it doesn't list the matter number on this

JBJ9SCO4

Julian - Direct

1 document that you see?

2 A. Correct.

3 Q. And I'd like to go down towards the bottom of the document
4 where it says fees. Do you see fees?

5 A. Yes.

6 Q. How much is the fees?

7 A. \$69,882.50.

8 Q. Do you see a number under trust balance?

9 A. Yes.

10 Q. What's that?

11 A. \$825,335.98.

12 Q. And you have this exhibit -- you've seen it before, right?

13 A. I have not.

14 Q. It's in the binder in front of you though?

15 A. Right. Yes.

16 Q. And is it fair to say -- you don't need to flip through it.
17 But it's a number of pages of billing records for this client
18 matter?

19 A. Yes.

20 MR. DEVLIN-BROWN: We can take that off the screen.

21 And I think we're going to show some government
22 exhibits now so I don't know if it's easier.

23 So I think we just need to turn off the lecturn.

24 So if we could publish Government Exhibit 1378.

25 Great.

JBJ9SCO4

Julian - Direct

1 Q. So this is -- if we could go to the e-mail that's in the
2 middle of the page there. It's from Mark Scott at Locke Lord
3 to Giselle. Could you read the paragraph, "As to the escrow
4 refund."

5 A. "As to the escrow refund, do these amounts include the
6 funds for the iCard purchase price? If we do this, I have to
7 inform them of those fact. Just want you to be aware. Also,
8 where did the funds originate from when we received them? Same
9 bank we are sending the back to?"

10 Q. Do you see the response from Gilbert Armenta on top, "Mark
11 really. You're asking these questions regarding iCard and bank
12 information really?"

13 A. Yes.

14 MR. DEVLIN-BROWN: If we could publish Government
15 Exhibit 1405, please.

16 Q. So the subject of the e-mail: "Call with this wire stuff
17 don't have your assistant give me vague instructions." I don't
18 need to read the last sentence. That's the subject line for
19 the entirety of this chain right?

20 A. Yes.

21 Q. And at the very bottom of the chain is an e-mail from
22 GArmenta at Zalagroup.com to MSS -- MS.law at Gmail.com. "On
23 the line for what, Mark. You make sound like there is issue.
24 There was not vague instructions."

25 Now if we can go to the top e-mail of the response.

JBJ9SCO4

Julian - Direct

1 A. Beginning with "Hi Gilbert"?

2 Q. Yes. Why don't you read the first two paragraphs, if you
3 don't mind.

4 A. "Not sure why you are treating me like the enemy lately? I
5 am trying to help so we have clean documentation. It is an
6 internal firm thing. Same as when you deal with a bank.

7 "And as to iCard, you have an escrow obligation. As
8 agent we are obligated to report when you pull the funds.
9 Maybe best for you to send them a note and copy me."

10 Q. OK. And the next paragraph says, "As to other funds, I
11 can't have an assistant instruct me to wire millions of
12 dollars. Need for you, all caps, to e-mail me that says you
13 need to deploy them differently than expected."

14 MR. DEVLIN-BROWN: If we could now publish Government
15 Exhibit 2042 in evidence and just start with the first page for
16 a moment.

17 Q. And, Ms. Julian, is this the same client matter that we saw
18 originally, 1515005.00011?

19 A. Yes.

20 Q. And who is it signed by or what's the print name anyway?

21 A. Mark Scott.

22 Q. And do you see also a name under second partner's
23 signature?

24 A. Yes.

25 Q. And the client matter is Zala iCard on line one, right?

JBJ9SCO4

Julian - Direct

1 A. Yes.

2 MR. DEVLIN-BROWN: If we could now go to page four of
3 the exhibit, please.

4 And just highlight the middle e-mail, Ms. Stanley,
5 from Mark Scott to Adriana Salcedo.

6 Q. If you could read that one out, Ms. Julian.

7 A. "Thanks. Not sure why funds are being pulled back? I have
8 to assume that the financial requirements of the purchase
9 target have changed or will simply be used for another
10 transaction that is more urgent. I can forward the client
11 request as well.

12 MR. DEVLIN-BROWN: If we could take this off the
13 screen and publish what is already in evidence as Defense
14 Exhibit 556.

15 Q. And let me just start with the bottom e-mail on February 16
16 from Mark Scott to Giselle and if you could read the second
17 paragraph.

18 A. "As to the escrow refund, do these amounts include the
19 funds for the iCard purchase price -- excuse me, the iCard1
20 purchase price? If we do this, I have to inform them of those
21 fact. Just want you to be aware. Also, where did the funds
22 originate from when we received them? Same bank we are sending
23 the back to?"

24 Q. And if you could see at the very top of the e-mail
25 there's -- well there's some more communication, and at the

JBJ9SCO4

Julian - Direct

1 very top you see the second e-mail from Gilbert Armenta to
2 GValentin, "Don't respond to Mark"?

3 A. Yes.

4 Q. And you see the response there, "Understood"?

5 A. Yes.

6 Q. And let's move to a different series -- a different
7 transaction.

8 MR. DEVLIN-BROWN: If we could publish please,
9 Ms. Stanley, Government Exhibit 1099.

10 Q. And what's the date of this document, Ms. Julian?

11 A. June 2, 2016.

12 Q. And do you see it reads at the beginning, "In furtherance
13 of my earlier message to you, please find below the wire
14 details for one of the investment funds as announced"?

15 A. Yes.

16 Q. And do you see -- this e-mail is from Gilbert -- from Mark
17 Scott to Gilbert Armenta?

18 A. Yes.

19 Q. Do you see anything in this e-mail about how Gilbert
20 Armenta should describe the funds he is sending from his bank?

21 A. (No response).

22 Q. Other than the information about what the banks are
23 themselves?

24 A. I do not.

25 MR. DEVLIN-BROWN: If we could go to Government

JBJ9SCO4

Julian - Direct

1 Exhibit 711-E, please, which is in evidence.

2 Q. And if you could just read the bank name at the top of
3 this, Ms. Julian.

4 A. Fates Group LLC.

5 Q. And -- no. Right below that.

6 A. Morgan Stanley Wealth Management.

7 Q. And if we could flip to page -- well actually look at the
8 very bottom. Can you make out that handwriting?

9 A. It looks like the signature for Gilbert Armenta.

10 Q. Correct me if I'm wrong but it looks like it reads,
11 "Confirmed with Luis Mercado at 1 p.m. on June 29, 2016. Spoke
12 to Gilbert Armenta," and it leaves a phone number?

13 A. Yes.

14 MR. DEVLIN-BROWN: Then if we could turn to page four
15 of this document, please, Ms. Stanley.

16 Q. Do you see the notes section. It says, "Confirm on LOA.
17 Monies are capital investment by the account owner in a new
18 company."

19 A. Yes.

20 Q. You don't see Mark Scott on this particular document, do
21 you?

22 A. I do not.

23 MR. DEVLIN-BROWN: We could take this off the screen,
24 please. And one more transaction.

25 Could we show Government Exhibit 419, please.

JBJ9SCO4

Julian - Direct

1 And Ms. Stanley do you have the capability of a side
2 by side?

3 Mr. Barile, are you able to take the reigns. What I'd
4 like to do is put Government Exhibit 4108 next to it, please.

5 Q. If we could go to the second -- well actually so Government
6 Exhibit 4108 there's an e-mail header from Diane Cook. Do you
7 see that Ms. Julian?

8 A. Yes.

9 Q. And it's to Mark Scott?

10 A. Yes.

11 Q. And it says, "Mark, please find attached a scan of a letter
12 that is being sent to you at the instruction of Gilbert"?

13 A. Yes.

14 MR. DEVLIN-BROWN: If we could go to page 2 of 4108,
15 Mr. Barile, and put that side-by-side with 419.

16 Q. So do you see any differences between these two letters,
17 Ms. Julian?

18 A. Yes. The first difference is the bank addresses.

19 Q. But what do you mean by bank addresses?

20 A. Government Exhibit 419 it's a Broward Boulevard Suite 1900
21 and 408 is -- it also includes other entities as well.

22 Q. So the one on the left just has Zala Group and Fates Group.
23 Do you see that?

24 A. Yes.

25 Q. The one on the right has also Soleymew Management LTD,

JBJ9SCO4

Julian - Direct

1 Water-Tidal Services LTD, and looks like I skipped the one
2 above it, Shureden Services LTD?

3 A. Yes.

4 Q. And do you see the language is also a little bit different
5 in the document?

6 A. Right. And Exhibit 419 also includes a series of numbers
7 which are not included in the 108.

8 MR. DEVLIN-BROWN: If we could leave this on the
9 screen. I'd like to read Defendant's Exhibit 1010 which is a
10 stipulation between the parties.

11 THE COURT: OK.

12 MR. DEVLIN-BROWN: If it's OK I'll skip the preamble.
13 But the stipulation is that: A representative of Iberia Bank,
14 if called to testify, would state the following.

15 One. Iberia Bank was unable to identify a copy of the
16 letter on the second page of Government Exhibit 4108 purporting
17 to be a letter from Sabadell United Bank in its records.

18 Two. Sabadell United Bank did not maintain bank
19 accounts for three of the five entities listed in Government
20 Exhibit 4108; namely, Shureden Services LTD, Soleymew
21 Management LTD, and Water-Tidal Services LTD.

22 Q. Do you see that? Well, nevermind.

23 It is further stipulated and agreed that this
24 stipulation, which is marked as Defense Exhibit 1010, may be
25 received in evidence as a defense exhibit at trial. So we'd

JBJ9SCO4

Julian - Direct

1 offer 1010.

2 THE COURT: There being objection, it will be
3 received.

4 MR. DiMASE: No objection.

5 (Defendant's Exhibit 1010 received in evidence)

6 MR. DEVLIN-BROWN: Thank you very much, Mr. Barile.

7 Ms. Stanley, can I call on you one more time. And
8 we're almost done.

9 Could we put Defense Exhibit 560 on the screen,
10 please. That's great, Ms. Stanley.

11 Q. So the bottom e-mail here is from Gilbert Armenta to Mark
12 Scott; is that right?

13 A. Yes.

14 Q. And it purports to be forwarding an e-mail from Sabadell --
15 is it not on the screen?

16 MR. DEVLIN-BROWN: Publish now. Is it published? No.
17 Not to the jury.

18 You're good? Thank you.

19 Q. The bottom e-mail -- so we just point out where it's
20 Gilbert Armenta forwarding something to Mark Scott, right?

21 A. Yes.

22 Q. And then the e-mail below that purports to be from Sabadell
23 United Bank. And if you read a few lines down, outgoing wire
24 transfer?

25 A. Yes.

JBJ9SCO4

Julian - Direct

1 Q. And I think we may need to go to the second page to see the
2 amount.

3 But before we do that, as long as -- you see the title
4 of the account here, Shureden Services LTD?

5 A. Yes.

6 Q. Is that one of the accounts that you heard on the
7 stipulation as Sabadell Bank having no record of having such an
8 account?

9 A. I believe so.

10 Q. If we could go to the next page. And do you see they have
11 a transfer amount, according to that, is \$25 million?

12 A. Yes.

13 MR. DEVLIN-BROWN: And if we could just publish 561 as
14 well, please, Ms. Stanley.

15 Q. And do you see this is a similar looking e-mail from
16 Gilbert Armenta to Mark Scott in the middle of the page?

17 A. Yes.

18 Q. Similar wire transfer information?

19 A. Yes.

20 Q. Do you see this is supposedly from Soleymew Management
21 Limited?

22 A. Yes.

23 Q. And was that one of the entities -- I can just read
24 paragraph two of Defendant's Exhibit 1010. Sabadell United
25 Bank did not maintain bank accounts for three of the five

JBJ9SCO4

Julian - Direct

1 entities listed in Government Exhibit 4108 Shureden Services
2 LTD, Soleymew Management LTD, and Water-Tidal Services LTD.

3 MR. DEVLIN-BROWN: And just one more exhibit,
4 Ms. Stanley, which is 562.

5 Q. Is this the same sort of wire transfer or purported wire
6 transfer being sent from Gilbert Armenta to Mark Scott this
7 time on behalf of Water-Tidal Services LTD?

8 A. Yes.

9 MR. DEVLIN-BROWN: Just check with cocounsel.

10 (Counsel confer)

11 MR. DEVLIN-BROWN: No further questions, your Honor.

12 THE COURT: Very well. Ladies and gentlemen, that
13 brings us to the end of the day. We'll break here. We'll get
14 back together tomorrow morning to start at 9:30. Please have a
15 wonderful evening. Do not discuss the case and do not read
16 anything about the case. Have a good night.

17 MR. DiMASE: Judge, if the jury is willing to stay I
18 think I have a very brief cross of this witness but it's up to
19 the court and the jury, obviously.

20 THE COURT: Let's let the jury go.

21 MR. DiMASE: OK.

22 (Continued on next page)

JBJ9SCO4

Julian - Direct

1 (Jury not present)

2 THE COURT: Ms. Julian, you may step down.

3 (Witness excused)

4 THE COURT: I saw one of the jurors start to gather
5 her stuff and a look of consternation came over her face when
6 you stood up.

7 MR. DiMASE: Understood. My cross will still be short
8 tomorrow.

9 THE COURT: Yes. So what about scheduling? Is this
10 the last witness, Mr. Devlin-Brown?

11 MR. DEVLIN-BROWN: It is the last witness. I don't
12 know if your Honor wishes to ask Mr. Scott if he wishes to
13 testify, and if you want to confer first we can before that.
14 But the only other thing, aside from Mr. Scott potentially,
15 would be a handful probably of additional defense exhibits. I
16 will give the ones we may want to offer in the morning to the
17 government and we can hopefully iron out any objections and
18 just we offer them very quickly in the morning. It wouldn't
19 take more than ten minutes and we don't necessarily need to
20 publish all of them.

21 THE COURT: OK.

22 (Defendant and counsel confer)

23 MR. DEVLIN-BROWN: And Mr. Scott would just like to
24 wait overnight to make a final decision.

25 THE COURT: Very well. So we'll see you tomorrow

JBJ9SCO4

Julian - Direct

1 morning. Don't be late.

2 I take it that we'll be done with this witness like in
3 five or ten or fifteen minutes, correct?

4 MR. DEVLIN-BROWN: I'm done already. Do you want me
5 to bring her back?

6 MR. DiMASE: Yes.

7 MR. DEVLIN-BROWN: Sure.

8 MR. DiMASE: Although -- yes.

9 THE COURT: OK. And we're going to get all the
10 summations in tomorrow, please, please edit. And certainly the
11 rebuttal summation should be no more than a half-hour or so.

12 MR. DEVLIN-BROWN: Music to my ears.

13 THE COURT: Again, any last comments on the jury
14 charge by no later than five o'clock this evening.

15 (Adjourned to November 20, 2019 at 9 a.m.)
16
17
18
19
20
21
22
23
24
25

INDEX OF EXAMINATION

Examination of:	Page
ROSALIND OCTOBER	
Direct By Ms. Lozano . . . . .	.1687
Cross By Mr. Garvin . . . . .	.1720
Redirect By Ms. Lozano . . . . .	.1763
Recross By Mr. Garvin . . . . .	.1767
KRISTINE FATA	
Direct By Mr. Folly . . . . .	.1773
Cross By Mr. Garvin . . . . .	.1785
WARREN ZAFFUTO	
Direct By Mr. Garvin . . . . .	.1795
Cross By Mr. Folly . . . . .	.1801
RONALD SHIMKO	
Direct By Mr. Devlin-Brown . . . . .	.1807
Cross By Mr. DiMase . . . . .	.1809
ROBERT SKORUPA	
Direct By Mr. Garvin . . . . .	.1810
Cross By Ms. Lozano . . . . .	.1815
Redirect By Mr. Garvin . . . . .	.1816
MICHELLE JULIAN	
Direct By Mr. Devlin-Brown . . . . .	.1820

GOVERNMENT EXHIBITS

Exhibit No.	Received
1441 . . . . .	.1687
2602A-BU, 2603-BU, 2622-BU, 2628-BU, . . .	.1720
2620-BU	
506 through 513, 517 through 537 . . . .	.1768
1363, 1125 . . . . .	.1768
1226, 1289, 1134, 1007 . . . . .	.1768
3305 . . . . .	.1772
601A, 601B, 601C, 601D . . . . .	.1777
601F, 601G, 601H, 601-TR . . . . .	.1777
1307 . . . . .	.1781
106 . . . . .	.1784

DEFENDANT EXHIBITS

Exhibit No.	Received
158, 159, 160, 701 . . . . .	.1725
499A, 560, 561, and 562 . . . . .	.1820
1010 . . . . .	.1831

COURT EXHIBITS

Exhibit No.	Marked
1 . . . . .	.1792